

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) Application No. NUSF-131  
Public Service Commission, on ) Progression Order No. 3  
its own motion, to establish )  
reverse auction procedures and )  
requirements. ) ORDER SEEKING COMMENT  
) AND  
) NOTICE OF HEARING  
)  
)  
)  
) Entered: April 16, 2024

BY THE COMMISSION:

The Nebraska Public Service Commission ("Commission") initiated this proceeding on June 29, 2021, to establish reverse auction procedures and requirements in order to carry out Neb. Rev. Stat. § 86-330. The Commission held its first reverse auction beginning on August 8, 2022 ("2022 Auction"). Results of the 2022 Auction were released on August 30, 2022. A second Auction was conducted beginning on January 22, 2024 ("January 2024 Auction"). Initial auction results were issued on March 26, 2024, and final auction awards will be released once all documentation has been received from winning bidders.

On January 23, 2024, in Commission Docket No. NUSF-99, Progression Order No. 2, the Commission issued an order setting forth the Nebraska Universal Service Fund ("NUSF") high-cost support for calendar year 2024.<sup>1</sup> Project commitments were due to the Commission by April 1, 2024. Following review of submitted project notices, the Commission has determined that approximately \$18.4 million in funding is available for a second 2024 reverse auction. The funding is divided by price cap carrier service territory as follows:

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<sup>1</sup> Commission Docket No. NUSF-99, Progression Order No. 2, *In the Matter of the Nebraska Public Service Commission, on its own Motion, to administer the Universal Service Fund High-Cost Program, Order Authorizing Payments and Setting Project Selection Deadline* (Jan. 23, 2024).

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<u>Carrier Service Territory</u>	<u>Amount Available</u>
Qwest Corporation d/b/a CenturyLink QC	\$7,584,331
United Telephone Company of the West d/b/a CenturyLink	\$2,252,405
Windstream Nebraska, Inc.	\$5,709,942
Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska	\$2,858,554

The Commission hereby finds that another reverse auction should be conducted ("Second 2024 Auction"), and comments on the reverse auction process should be sought. The Commission therefore seeks comment from telecommunications providers and interested parties as to how the reverse auction process might be improved. Several topics for comment are set forth below.

## **1. Previous Adjustments to Reverse Auction Process**

In the January 2024 Auction, the Commission made several changes to its reverse auction process. The Commission seeks feedback on these changes. Specifically, the Commission adjusted the reserve price for MBUs. Pricing was set at two and a half times the cost modeled by the State Broadband Cost Model ("SBCM") in setting the reserve prices for MBUs. The Commission seeks feedback on this price adjustment. Was this the appropriate cost adjustment? Should the Commission change the pricing for MBUs in the Second 2024 Auction, and if so, by how much? Should any other adjustments or methodology be used for setting the reserve price for MBUs?

Additionally, carriers who turned back NUSF support, or that did not file projects to claim allocated support, were allowed to bid in the January 2024 Auction. The Commission seeks comment as to whether the results of this participation were desirable. Should the Commission continue to allow bids from carriers who do not use all allocated support?

The Commission welcomes comments on any other process changes made in the January 2024 Auction.

## **2. Participant Eligibility**

The Commission is proposing to conduct a second reverse auction within the calendar year of 2024. Given the short amount of time between the previous auction and the Second 2024 Auction, the Commission proposes that bidders previously found to be eligible to participate in the January 2024 Auction should be deemed eligible to participate in the Second 2024 Auction without further review. We propose that these entities need only submit the Pre-Auction Application Form to indicate their interest in participating in the Second 2024 auction. Doing so would reduce the administrative burden of reviewing applicants, and therefore decrease the amount of time required before the Commission is able to open the Second 2024 Auction for bids.

Participants would still be required to submit Post-Auction Commitment Forms, as well as all necessary documentation to support a finding that they are eligible for auction awards. Participants who have not provided audited financial statements within the past two calendar years would be required to provide them with the Post-Auction Commitment Form. The Commission seeks comment on this proposal.

Additionally, the Commission intends to seek Pre-Auction Application Forms from interested parties earlier in the process. Any interested parties interested in participating in the reverse auction may submit a Pre-Auction Application Form beginning on May 3, 2024, and continuing through **May 31, 2024 at 5:00 p.m. Central Time**. The Pre-Auction Application Form will be available on the Commission website on or before May 3, 2024. The Commission hereby adopts this process in order to expedite the review of participants so that funding can be distributed in a timely manner.

## **3. Bidding Rounds**

In the 2022 Auction and the January 2024 Auction, bidding rounds were conducted every other business day. However, the Commission noted that the final rounds of the January 2024 Auction appeared to take more time than may have been necessary. Should the Commission adopt a faster schedule for bidding rounds, and if so, what would such a schedule look like? Should the speed of bidding rounds increase only when all MBUs are contested between

two bidders? Alternatively, should the schedule change after a set number of rounds? The Commission welcomes input on this topic.

#### **4. Auction Date and Procedural Schedule**

The Commission is considering opening the Second 2024 Auction in early July of 2024. Will the timing of this auction be feasible for interested carriers, given that winning bidders have in past years been granted a two-year term of support? Given the recent influx of state and federal funding for construction of networks, are carriers able to perform the work required to provide service to awarded areas within this time period? If not, should the Commission consider conducting a reverse auction at a later date? Alternatively, should a longer term of support be considered? Given the ongoing BEAD challenge process to determine what locations in Nebraska are or will be served, should the Commission seek to complete the reverse auction at any particular time in the coming months?

The Commission has developed a proposed procedural schedule for the Second 2024 Auction, attached hereto as Attachment A. The Commission seeks comment on this proposed schedule. Should any adjustments be made?

#### **5. Other Issues**

The Commission also seeks comment on any ways in which the process for future reverse auctions might be improved. Did carriers face any issues or barriers to participation in the January 2024 Auction? Are there other changes the Commission should consider to the reverse auction process? Alternatively, are there other mechanisms for distributing unused support which the Commission should consider?

#### **6. Confidential Materials**

The Commission wishes to remind participants that while a Protective Order is in place with respect to filings made in the course of the 2022 Auction and the January 2024 Auction, that Protective Order would not extend to confidential materials submitted to the Commission in support of comments filed pursuant to the above-captioned Order. However, the Commission wishes to encourage parties to provide as much supporting information or documentation as possible in providing responses to the questions listed above. The Commission therefore recommends that any party wishing to share materials with the Commission that may be of a

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sensitive nature submit a motion for protective order to the Commission seeking specific protection of the filings to be made, prior to the comment deadlines listed below.

## 7. Comment Deadline

The Commission hereby requests that interested parties submit comments on the above-described topics by **Friday, May 3, 2024, at 5:00 p.m. Central Time**. Parties may submit comments via email to [psc.nusf@nebraska.gov](mailto:psc.nusf@nebraska.gov).

## 8. Hearing

The Commission hereby finds that this matter should be set for hearing. The hearing will be held on **Wednesday, May 15, 2024 at 1:30 p.m. Central Time** in the Commission Hearing Room, 1200 N Street, 300 The Atrium, Lincoln, Nebraska 68508. This Hearing shall be held in person; however, remote access to the hearing will be available via WebEx at the following link: <https://psc.nebraska.gov/stream> (case sensitive). If a witness desires to appear via Webex, please notify Commission Staff in advance so that they may ensure that said witness has the appropriate capability to appear via video and audio.

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 Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven days is needed when requesting an interpreter.

## O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that comments in this proceeding shall be filed on or before **Friday, May 3, 2024, at 5:00 p.m. Central Time**.

IT IS FURTHER ORDERED that a hearing in this matter shall be held scheduled for **Wednesday, May 15, 2024 at 1:30 p.m. CST** in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska and via videoconference as described above.

IT IS FURTHER ORDERED that parties interested in participating in the next reverse auction may submit a Pre-Auction Application Form beginning on May 3, 2024, and continuing through **May 31, 2024 at 5:00 p.m. Central Time**.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 16th day of April, 2024.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Eric M. Hamler*

*[Signature]*

*Tim Schram*

*Kevin Stocker*

*[Signature]*

Chair

ATTEST:

*Thomas W. Golden*

Executive Director

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**Attachment A**

## Proposed Procedural Schedule Second 2024 Reverse Auction

Event	2024 #2 Date
Comments due	Friday, May 3, 2024
Hearing	Wednesday, May 15, 2024, at 1:30 p.m. Central Time
Pre-Auction Application Forms due	Friday, May 31, 2024
Order issuing auction & list of qualified bidders entered	Tuesday, June 25, 2024
Eligible bidding areas released	Tuesday, June 25, 2024
Bidding begins	Monday, July 8, 2024
List of successful bidders released Quiet Period ends	<i>Approximately two weeks following close of Auction</i>
Post-Auction Application Forms due	<i>Date will be announced in a future Commission Order</i>
Final award of bids released	<i>Following review of Post-Auction Commitment Forms</i>