

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own motion, to implement standards for the verification of broadband service provider coverage and speed data.))))))))))	Application No. NUSF-133 Progression Order No. 1 ORDER OPENING DOCKET AND SEEKING COMMENT Entered: June 25, 2024
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COMMENTS OF WINDSTREAM

Windstream Nebraska, Inc., (“Windstream”) provides the following comments in response to the Nebraska Public Service Commission’s (“Commission”) above captioned Order seeking comments standards for the verification of broadband service provider coverage and speed data in accordance with NEB. REV. STAT. § 86-324.02.

A. RESPONSE TO COMMISSION INQUIRIES

As a preliminary matter, Windstream continues to assert that state-level speed testing requirements should conform as much as possible to those required by the FCC for Connect America Fund Phase II (“CAF II”), Rural Digital Opportunity Fund (“RDOF”), and other federal support programs. Windstream believes state-level speed testing that mirrors FCC requirements can provide the Commission with the data it needs while limiting the administrative and labor burdens on carriers already conducting testing under other programs. To the extent the FCC has addressed the Commission’s inquiries below, Windstream’s responses should be read to support conformance with federal speed testing requirements.

1. Overview of Requirements

Windstream recommends the speed testing requirements for recipients of ongoing high-cost NUSF support, Nebraska Broadband Bridge Program grants, and precision agriculture connectivity grants issued in the Commission’s November 8 Order be updated in accordance with

the below recommendations.

2. Minimum Number of Subscribers

As the Commission has rightly identified, it can be challenging for carriers to obtain the minimum number of subscribers required for speed testing after the completion of project construction. There are a number of factors that may contribute to a take rate within a project area. For carriers, the timeline for testing is the first challenge. Although construction may be complete, individual locations must first be “qualified” for service before becoming a location eligible to be signed up for service; this process can take several days or weeks to complete, depending on the size of the project. Once locations are qualified, Windstream begins advertising to customers using standard advertising, such as digital advertising and mailers. Windstream also sometimes deploys personnel to recruit customers to the new service. If customers want to transition from their existing services – which is not always the case, additional time is needed to physically connect and transition customers to the new service.

Other customer considerations that may affect whether they move to a fiber service is their satisfaction with their current Internet service – even if it is below 100/20 Mbps, the cost of service, and their connectivity needs.

Windstream recommends the Commission refrain from adopting advertising requirements or other similar requirements. These types of regulations would increase the administrative burden on recipients without guaranteeing an increased take rate. Based on its industry knowledge, Windstream posits that carriers are already undertaking the necessary steps to advertise as part of their standard business practice.

Instead, Windstream recommends the Commission consider an exception or alternative deadline for carriers who certify to the Commission that the number of active customers in a project

location at the time of the Commission’s speed testing deadline is insufficient to meet the minimum number of test locations. One solution could be to simply require testing of all locations eligible for remote speed testing. Alternatively, an extension of the deadline would be appropriate if the carrier can demonstrate it has been acting in good faith in recruiting customers to the new service.

3. Minimum Adequate Threshold

Windstream urges the Commission to align its speed testing framework as closely as possible to those required by the FCC. Accordingly, Windstream recommends the Commission retain its current 80/80 standard.

4. Speed Testing for Past Projects

Windstream again asks the Commission to align its speed testing framework with FCC wherever possible. Asking carriers to test for maximum capabilities rather than minimum requirements presents a whole host of challenges for carriers and would be a significant administrative burden. Given the location information available through federal- and state-level mapping, as well as the requirements and oversight for those receiving ongoing support throughout the NUSF transition ought to provide the necessary information for staff to ascertain speed capabilities within the state.

5. Reimbursement Process and Ongoing Support

Although speed testing may be necessary to initially establish whether a location receives service of at least 100/20 Mbps – which should be achieved by reviewing past speed testing wherever possible – Windstream cautions the Commission against requiring repeated testing absent good cause to believe the location may not be receiving adequate services. Speed testing can take significant resources to complete, which only ultimately increases the costs passed down to customers. Absent a clear risk that a network’s service offerings will deteriorate, carrier

resources are better dedicated to customer support and network improvements.

6. Department Discretion

Although unique challenges may certainly arise, Windstream recommends the Commission create and maintain speed testing criteria that are as objective as possible. Rather than granting “flexibility and/or discretion for the NUSF Department,” the Commission should continue working with the industry to identify barriers to achieving the necessary speed testing data and attempt to proactively address these challenges in objective rules and regulations that can be uniformly applied to all carriers. In addition, the Commission should explore opportunities to streamline rulemaking dockets so both the Commission and industry can be more responsive.

7. Other Topics

In addition to the above comments, Windstream asks that the Commission remove the following speed testing requirement: “Each speed test must measure a connection between a specific consumer location and a specific remote server location for a duration of at least 10 seconds.” Rather than requiring a time-based test, the Commission should allow for file-based testing. File-based testing focuses on transferring a file of a predetermined size and measuring the speed of this transfer, therefore measuring the time it takes to download or upload a specific file size. As networks become capable of higher and higher speeds, the size of the file required to achieve a 10-second test becomes significant. When sent throughout the testing window, sending files of this size for speed testing simultaneous with a customer’s regular use can cause customer disruptions. Eliminating the 10-second requirement will reduce the risk of a negative impact on the end users’ experience during a testing period while still acquiring the necessary speed testing data to determine a network’s capabilities.

Furthermore, removal of this requirement would better align the Commission’s speed

testing rules with the well-established FCC testing rules, which do not include such a requirement, as well as the speed testing requirements of other states.

III. CONCLUSION

Windstream is committed to providing its customers with a quality service experience. Windstream continues to improve and expand its infrastructure capabilities, as well as evaluating how best to respond to customer needs. Windstream thanks the Commission for its dedication to ensuring quality service for Nebraska's citizens and looks forward to being a continued partner in meeting Nebraska's broadband needs.

Respectfully submitted on this the 23rd day of July 2024.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 23, 2024, an electronic copy of the foregoing Comments on behalf of Windstream Nebraska, Inc. in NUSF-133 was delivered to:

psc.nusf@nebraska.gov

/s/ Mary Vaggalis
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