

# 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-139  
Public Service Commission, on ) Progression Order No. 6  
its own Motion, to consider )  
appropriate modifications to )  
the high-cost distribution and ) ORDER SEEKING COMMENT AND  
reporting mechanisms in its ) SETTING HEARING  
Universal Service Fund program )  
in light of federal and state )  
infrastructure grants. ) Entered: April 8, 2025

BY THE COMMISSION:

## **Background**

The Nebraska Public Service Commission ("Commission") initiated this proceeding, on its own motion, on August 29, 2023 ("August 29<sup>th</sup> Order"), to consider appropriate modifications to the Nebraska Universal Service Fund ("NUSF") high-cost distribution mechanism and associated reporting requirements.<sup>1</sup> The Commission's August 29<sup>th</sup> Order identified certain issues as those which needed to be determined for the distribution for high-cost support in the 2024 calendar year.

During 2024 the Commission held several workshops and hearings and issued progression orders making findings on several key reform measures which were necessitated by state and federal broadband grant programs and changes to the federal high-cost funding mechanism.

On March 5, 2025, the Commission held a workshop to discuss a number of additional issues. Those issues were outlined in its February 4, 2025 Order, and in the Commission's workshop agenda released on February 28, 2025.

In the present Order, the Commission seeks comment on the potential framework for porting or otherwise transitioning NUSF support to competitive carriers who have deployed broadband and

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<sup>1</sup> *In the Matter of the Nebraska Public Service Commission, on its own Motion, to consider appropriate modifications to the high-cost distribution and reporting mechanisms in its Universal Service Fund program in light of federal and state infrastructure grants, Application No. NUSF-139, Order Opening Docket Seeking Comment and Setting Hearing (August 29, 2023) ("August 29<sup>th</sup> Order").*

offer service at speeds of at least 100/20 Mbps to rural subscriber locations. The Commission seeks comment on the accompanying obligations which should be imposed as a condition of receipt of such high-cost support. Further, the Commission seeks comment on the use of a cost model with carrier agnostic serving areas and the frequency of cost model updates. Finally, the Commission seeks comment on a proposal relative to minimum support amounts. The Commission plans to address the other issues identified in the March 5, 2025 workshop in a later progression order, which may include, but may not be limited to, the continued use of the NUSF-EARN form, and annual reporting requirements.

### ***Issues for Comment***

#### A. Framework for transitioning support and obligations to Competitive Carriers

The Commission seeks comment on the framework outlined below for transitioning NUSF high-cost support to competitive eligible telecommunications carriers.

1. Competitive carriers may file an application with the Commission seeking NUSF support which would include taking on carrier of last resort obligations.<sup>2</sup>
2. Applications seeking NUSF support could be filed on a rolling basis throughout the year.
3. The Application would be processed consistent with the Commission's Rules of Procedure.
4. Applications seeking NUSF high-cost support would be required to include the following elements:
  - a. A description of the carrier's organizational structure, including a certificate of good standing from the Nebraska Secretary of State.
  - b. A demonstration that the carrier is a Nebraska eligible telecommunications carrier (NETC) or commitment to become a NETC prior to a COLR transition

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<sup>2</sup> This may be separate from an application filed by an incumbent carrier seeking to be relieved of carrier of last resort obligations. Such an application could be separately filed and considered under the Rural Communications Sustainability Act where a grant was awarded and a project has been completed. However, the Commission could approve a transition of carrier of last resort obligations from one carrier to another if such a request is also filed. The Commission will continue its policy of providing NUSF support to only one wireline provider in a given area.

## SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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Application No. NUSF-139

Page 3

- taking place and becoming authorized for ongoing NUSF support.
- c. An election to take on COLR obligations in the described service territory with a specific description of the described service territory.<sup>3</sup>
  - d. A commitment to offering service to every location within the designated service area.<sup>4</sup>
  - e. A demonstration that the competitive carrier provides voice and broadband service with minimum service speeds of 100/20 Mbps to locations in the designated service area, including but not limited to reporting the locations as serviceable through the FCC Broadband Data Collection process.
  - f. A commitment to the provision of NUSF supported services including but not limited to 911 and Telecommunications Relay services.
  - g. A commitment to offering affordable and reasonably comparable services at a rate which is at or below the benchmark rate established by the Commission.
  - h. A commitment to filing the NUSF EARN Form, or any replacement filing, on an annual basis.
  - i. A commitment to filing the Commission-prescribed NETC certification reports on an annual basis.
  - j. A commitment to provide interconnection with any requesting carrier on a reasonable and nondiscriminatory basis.
  - k. A commitment to filing speed test data and meeting speed testing metrics consisting with the Commission's Orders in Docket No. NUSF-133.
  - l. A commitment that the NUSF support received will be used in a manner which is consistent with the requirements of the NUSF Act (Neb. Rev. Stat. §§ 86-316-86-329), Commission rules and regulations, and Commission orders relevant to the use of NUSF high-cost support.

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<sup>3</sup> This election could include a statement as to whether the incumbent carrier voluntarily wishes to be relieved of carrier of last resort obligations in the described service territory.

<sup>4</sup> The Petition must include a list of locations served/to be served, as well as a map, and supporting map data in shapefile or other GIS-supported format, of the service area. A Petitioner must commit to providing service to all locations within the service area upon request.

## SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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Application No. NUSF-139

Page 4

- m. An affidavit affirming that Applicant is not using or deploying any communications equipment or service deemed to pose a threat to national security which is identified on the Covered List anywhere on its network.<sup>5</sup>
5. The Commission would, on an annual basis, determine eligible locations for the purpose of calculating eligible competitive carriers' high-cost support. The Commission proposes to establish a date certain, such as October 1<sup>st</sup>, as the date by which competitive carriers' eligibility and NUSF application for support for the specific area/locations would be determined. Applicants who have not had applications approved by the Commission prior to that date certain would not have their locations included in the high-cost distribution mechanism for the subsequent calendar year. Once an application is approved, the competitive carrier maintains eligibility as long as the Commission re-certifies the carrier for NUSF support for the relevant year.<sup>6</sup>
6. However, for the purposes of calculating 2026 calendar year support, due to the fact that the newly established framework does not provide for a lot of time, the Commission would propose to include location-based support calculations for all competitive carriers approved for NUSF support using the mechanism described above if their application has been approved by December 31<sup>st</sup>. Carriers would need to consider the potential time to have an application filed, noticed, and approved by the December 31<sup>st</sup> deadline and plan accordingly.
7. Competitive carriers seeking support in an approved support area, may not be eligible to receive support based on other criteria tied to location eligibility, earnings test limitations, or other factors which cause a reduction in NUSF support.

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<sup>5</sup> See 47 C.F.R. § 1.50002; see also Neb. Rev. Stat. §§ 86-125(4)(c) and 86-324(2)(d).

<sup>6</sup> The Commission plans to keep the annual re-certification date in place so that it is consistent with the timeline for annual federal universal service support certifications.

## B. Cost Model Updates

The Commission seeks comment on whether to use a carrier agnostic cost model for the purpose of determining relative costs for high-cost support distribution. The Commission further seeks comment on how often it should update the cost model to include changes due to boundary changes, inflation, or other significant events. Should the Commission update the cost model on an annual basis or is every two or three years sufficient? The Commission staff is continuing to work with CostQuest regarding cost model update options, including seeking input from interested parties regarding specific cost elements used in the model. Additionally, the Commission may schedule a technical conference with the interested parties to answer questions and engage in a discussion regarding cost model updates.

## C. Use of a Minimum Support Amount

The Commission also seeks comment on the use of a minimum support amount in the high-cost distribution mechanism as a replacement to the glide path used in 2025. Specifically, the Commission seeks comment on the following proposal:

1. The Commission would propose including the minimum support base amount (MBSA) in the support base of the model.
2. For each eligible location, the Commission would take the modeled cost to serve less \$63.69 and up to \$100, annualized.<sup>7</sup>
  - a. There would be no imputation of federal support;
  - b. The Commission would sum the support at a company level as the MBSA;
  - c. The Commission would use either the regular support base or MBSA, whichever is greater; and
  - d. The Commission would run the support calculation through the earnings test/redistribution, assuming those mechanisms are retained.

## D. Continued Use of the NUSF EARN Form and Process

At the workshop, several interested parties committed to discuss the retention of, the elimination of, or possible revisions to the NUSF EARN Form and process. The Commission will provide the

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<sup>7</sup> This suggested amount closely resembles a comparable support provided to carriers under the 2025 glide path mechanism.

## SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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Application No. NUSF-139

Page 6

interested parties an opportunity to continue those discussions if needed and present their alternatives to the Commission for further consideration.

### ***Comment Deadline***

Interested parties may file comments responsive to the issues/proposals described above on or before **May 6, 2025, at 5:00 p.m.**, Central Time. Commenting parties should electronically submit their comments to [psc.nusf@nebraska.gov](mailto:psc.nusf@nebraska.gov). Parties should also electronically serve a copy of their comments on those parties that have previously filed comments and/or testimony in Docket NUSF-139.

### ***Hearing***

A hearing in this matter will be set for **May 14, 2025, at 10:00 a.m.**, Central Time, in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska 68508 and via WebEx. 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 interested parties may file comments on the issues and proposals outlined herein on or before **May 6, 2025**, in the manner prescribed above.

IT IS FURTHER ORDERED that a Hearing will be held on **May 14, 2025, at 10:00 a.m., Central Time**, in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska 68508 and via WebEx.

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SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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Application No. NUSF-139

Page 7

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 8th day of April, 2025.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Eric M. Hamler*  
*[Signature]*  
*Kevin Stocker*  
*David [Signature]*

*Tim Schram*  
Chair

ATTEST:

*Joyanne Heyman*  
Deputy Director