BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

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 Progression Order No. 9 ORDER ISSUING OPINIONS AND FINDINGS Entered: November 18, 2025

BY THE COMMISSION:

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Background

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

On March 5, 2025, the Commission held a workshop to discuss a number of issues. Those issues were outlined in its February 4, 2025 Order, and in the Commission's workshop agenda released on February 28, 2025. On April 8, 2025, the Commission released an order seeking comment and scheduling a hearing. Prior to comments being filed, the Commission paused the procedural schedule to provide an opportunity to hold an additional workshop and a technical conference on the cost model. The Commission held a workshop on May 14, 2025, and a technical conference on June 17, 2025.

Pursuant to the discussion at the technical conference, the Commission, through the Hearing Officer, partially modified the issues for comment, set a comment deadline and scheduled a workshop for July 15, 2025. On August 26, 2025,

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[1] *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 29th Order").

the Commission issued Findings and Opinions, Solicited Pre-Testimony, and scheduled a hearing.

A hearing was held in Lincoln, Nebraska on September 30, 2025. Appearances entered at the hearing are indicated above. The Commission previously sought comments on a framework to transition NUSF high-cost support and Carrier of Last Resort ("COLR") obligations as outlined in its July 26, 2025 Order. In the present Order, the Commission enters findings adopting the initial framework for transitioning of or porting of NUSF support to competitive eligible telecommunications carriers.

Pre-Filed Testimony and the Commission Hearing

The Commission received comments by the following: Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink (collectively "Lumen" or "CenturyLink"),[2] the Nebraska Rural Independent Companies ("RIC"),[3] the Rural Telecommunications Coalition of Nebraska ("RTCN"),[4] the Nebraska Rural Broadband Alliance ("NRBA"),[5] Charter FiberLink-Nebraska, LLC and Time Warner Cable Information Services (Nebraska)(collectively "Charter"),[6] and Windstream (n/k/a "Uniti").[7] These comments were offered and received into the record as Exhibit Nos. 2-7.

The Commission's August 26th Order requested pre-filed testimony be filed on or before September 16, 2025 in advance of the September 30, 2025 hearing. The relevant positions of the parties in these filings and the testimony given at the hearing are summarized and restated below.

Mr. Cullen Robbins, the Commission's Telecommunications and NUSF Director, filed pre-filed testimony which generally described the Commission's

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[2] *See* Hearing Exhibit No. 2.

[3] *See* Hearing Exhibit No. 3.

[4] *See* Hearing Exhibit No. 4.

[5] *See* Hearing Exhibit No. 5.

[6] *See* Hearing Exhibit No. 6.

[7] *See* Hearing Exhibit No. 7.

transition framework proposal.[8] In his pre-filed testimony, Mr. Robbins stated that the Commission had released a proposed framework for transitioning carrier of last resort ("COLR") responsibilities.[9] Robbins explained that the July 15th workshop focused on clarifying and defining key terms used in the proposal and reported that Commission staff were comfortable with the proposed framework.[10] He explained that "Support Area" and "Service Area" were defined to establish a clearer distinction between the two concepts, and that the Commission remained open to suggestions on how to further refine those definitions.[11] In short, the Commission's proposal would allow for carriers to file an application seeking NUSF high-cost support for certain locations where broadband has been deployed with the obligation that such carriers assume COLR obligations, be a Nebraska Eligible Telecommunications Carrier ("NETC"), commit to providing service to everyone in the designated area, provide voice and broadband service at speeds of 100/20 Mbps or greater, provide 911 and TRS, offer supported services at reasonable prices, submit speed test data and follow the Commission's general requirements for carriers designated as ETCs.[12] Mr. Robbins testified that the Commission staff and CostQuest were in the process of incorporating updated provider-supplied data into the model runs.[13] He testified that he expects to have an updated model prepared soon.[14]

Mr. Dan Davis, Director of Policy and Analysis at Consortia Consulting, filed pre-filed testimony on behalf of the RIC members, which was offered and received in the record at the hearing.[15] Mr. Davis's pre-filed testimony discussed RIC's advocacy on two fundamental principles regarding transitioning of NUSF high-cost support and obligations. [16] First, Mr. Davis stated high-cost support should be provided only to one facilities-based NETC in a given support area.[17] Second, competitive carriers seeking Commission approval to receive high-cost support

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[8] See Hearing Exhibit No. 8.

[9] *See* Pre-Filed Direct Testimony of Cullen Robbins (September 16, 2025) at 1.

[10] *See id.*

[11] *See id.* at 2.

[12] *See id.* at 1-2.

[13] *See* Hearing Transcript (TR) at 15.

[14] *See id.*

[15] *See* Hearing Exhibit No. 10.

[16] *See* Dan Davis Pre-filed Testimony (September 16, 2025) at 1.

[17] *See id.*

should be subject to the same eligibility and operational requirements as incumbent LECs that receive high-cost support.[18] Mr. Davis stated that RIC endorses and supports each of the service obligations listed in the Commission's Order.[19] RIC stated that carriers should comply with all relevant Commission rules, including NUSF Rule 004.02(D) and Neb. Rev. Stat. § 86-324.02.[20] RIC also endorsed the Commission's proposal to utilize the term "Support Area" as defined in NUSF Rule 001.01(V) to describe the area on which NUSF obligations and COLR obligations attach, with the addition of the phrase "containing broadband and voice capable serviceable locations."[21] RIC also endorsed the use of the term "Service Area" as defined in NUSF Rule 001.01(U).[22] However, Mr. Davis stated, Support Area and Service Area may not necessarily be the same geographic area.[23] Mr. Davis stated a Support Area should consist of the area containing broadband and voice capable serviceable locations that the Commission has designated to receive NUSF high-cost support.[24] A Service Area should consist of the area in which the Commission requires the NETC to provide service.[25] RIC also took exception to certain elements of Section 4 of the proposed Framework and continued to stand by those exceptions.[26]

At the hearing, Mr. Davis reiterated RIC's support for the principles adopted by the Commission that NUSF high-cost support should be provided to only one facilities-based NETC in a given support area. Further, the competitive carrier receiving high-cost support should be subject to the same eligibility and operational requirements as the incumbent LEC that had been receiving support.[27] RIC advocated that the competitive carriers seeking high-cost support should first be required to obtain grants of ETC and NETC status from the Commission prior to such carriers'

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[18] *See id.* at 2.

[19] *See id.*, *citing* Progression Order No. 8, n. 50.

[20] *See id.* at 3.

[21] *See id.*

[22] See id.

[23] *See id.*

[24] *Id.*

[25] *Id.*

[26] *Id.* at 4.

[27] *Id.* at 48.

entitlement to receive high-cost support.[28] RIC opposed the use of a carrier agnostic model as the basis for distributing NUSF high-cost support, especially in rate-of-return carrier service areas.[29] Mr. Davis testified that as a general matter, RIC did not agree with The NRBA's criticisms of the Commission's proposed framework or their proposed changes to the framework.[30] RIC did not support NRBA's definitions and changes to the Commission's proposed framework.[31] RIC also opposed Charter's proposed revisions to the definition of "Support Area."[32] Mr. Davis stated Charter's proposal is not only unnecessary but would also conflict with established Commission policy.[33] Mr. Davis testified that Uniti Group's recommendation that any transition of support and service obligations should only be on an entire exchange basis conflicts with the legislative directives of the RCSA. The RCSA, Mr. Davis stated, limits transition of support and service obligations to the "deployment project area."[34] A deployment project area is defined in statute as a contiguous geographic area consistent of locations serviceable by broadband or telecommunications services determined by the granting agency for a project funded under a broadband deployment program.[35] Mr. Davis stated that section of statute further states that a deployment project area may be located in more than one local exchange area.[36] Mr. Davis stated that Lumen advanced a recommendation similar to Uniti Group which is likewise contrary to the requirements of the RCSA.[37] Further, he stated, this is not impacted by the passage of the Telecommunications Exchange Deregulation Act as it expressly states that the Deregulation Act shall not affect or modify any provision of the RCSA.[38]

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[28] *Id.*

[29] *See id.* at 51.

[30] *See id.*

[31] *See id.* at 53.

[32] *See id.* at 53-55.

[33] *See id.* at 55.

[34] *See id.* at 56.

[35] *Id.*

[36] *Id.*

[37] *See id.* at 57.

[38] *See id.*

Mr. Peter Gose, Senior Director of Regulatory Affairs for Lumen, submitted testimony on behalf of Lumen.[39] He stated that Lumen was not opposed to competitive carriers receiving NUSF high-cost support, but strongly supported the principle that only one carrier per service area should receive high-cost support and immediately upon receipt of such support, the carrier must take on full COLR obligations.[40] At the same time, Mr. Gose stated, Lumen's position is that the incumbent's COLR obligations in that territory should be removed.[41] Mr. Gose's testimony stated a carrier's application for support must commit that carrier to become an NETC, provide a clear description of the support area, and commit to serving every existing and future request for service including providing broadband at speeds of 100/20 Mbps.[42] Mr. Gose stated the supported competitive carrier must agree to take on all the COLR obligations for the support area including offering reliable voice service with access to 911,TRS, and quality broadband to any customer in the area that requests service.[43] Lumen also recommended the designated service area or support area encompass the incumbents entire exchange or wire-center territory. Lumen stated that the supported area should be contiguous and inclusive of all customers, regardless of cost, and that detailed mapping should be used to ensure that the supported carrier is capable of serving all locations within the area.[44] Mr. Gose's testimony explained that the overarching concern in this instance is to prevent a "creamskimming" situation.[45] Lumen would not support using census blocks, block groups, or tracts because they do not always align with existing incumbent local exchange carrier wire center boundaries.[46] Lumen largely supported the application checklist in Progression Order No. 6.[47] In addition, Lumen suggested the competitive carrier show it is technically capable and financially sound.[48] Lumen

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[39] *See* Hearing Exhibit No. 14.

[40] *See* Testimony of Peter Gose on behalf of Lumen Technologies, Inc.'s Nebraska Incumbent Local Exchange Carriers (September 16, 2025) at 5.

[41] *See id.*

[42] *See id.* at 6.

[43] *See id.* at 7.

[44] *Id.* at 8.

[45] *See id* at 8.

[46] *Id.*

[47] *See id.* at 9.

[48] *See id.* at 10.

recommended that the transfer of COLR obligations and support should formally take effect at the start of the next support year.[49]

Mr. Gose provided testimony at the hearing. Mr. Gose reiterated Lumen's position that the transitioning of NUSF high-cost support and obligations should be done on a wire center, or exchange, basis.[50] He stated this approach avoids duplication for businesses to cherry pick profitable areas and maintain service continuity.[51] Mr. Gose stated that Lumen took no issue with the Commission's proposed definitions in Progression Order No. 8.[52] Mr. Gose further testified that Exhibit 14, which was offered by NRBA, reinforced Lumen's concerns regarding creamskimming.[53] In response to Mr. Gose's testimony, the Commission gave leave to NRBA to submit a revised map showing the entire wire center as a late-filed exhibit. [54]

Mr. Timothy Goodwin filed pre-filed testimony on behalf of Charter which was offered and received as Exhibit No. 11.[55] Charter supported using the terms "support area" and "service area" to identify locations where NETCs receive support and assume service obligations.[56] However, Charter recommended clarifying the definition of "support area" to include only unserved locations lacking broadband access. Charter's position is that NUSF high-cost support should not be used where there is existing broadband infrastructure.[57] Charter recommended the Commission provide support to areas which allows ongoing support to NETCs for locations being built out under federally enforceable commitments.[58]

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[49] *See id.* at 11.

[50] *Id.* at 61.

[51] *Id.* at 62.

[52] *Id.* at 63.

[53] *See id.* at 65.

[54] See id. at 72; *see also* Exhibit No. 18.

[55] *See* Hearing Exhibit No. 11.

[56] *See* Testimony of Timothy J. Goodwin in Response to Progression Order No. 8 on behalf of Charter Fiberlink-Nebraska, LLC and Time Waner Cable Information Services (Nebraska) LLC (September 16, 2025) at 2-3.

[57] *See id.* at 3.

[58] *See id.* at 4.

At the hearing, Mr. Goodwin stated that he thought definitionally the parties were pretty close to consensus.[59] The definition for support area could be resolved thought negotiation. Charter's position, he stated, is that the NUSF high-cost support should only go to locations that need broadband.[60] Mr. Goodwin stated that Charter's position is that if a carrier is already providing broadband, there is no need for NUSF high-cost support to continue to support that location.[61] Accordingly, Charter recommended an alternative definition for the Commission's consideration.[62]

Mr. Russell Westerhold filed pre-filed testimony on behalf of the RTCN which was offered and received as Exhibit No. 12.[63] RTCN provided general support for the Commission's proposed framework for transitioning high-cost support and COLR obligations to NETCs.[64] Mr. Westerhold also indicated that RTCN agreed with the same two fundamental principles suggested by RIC which were that (1) high-cost support should be provided to only one facilities-based provider in a given support area; and (2) competitive carriers seeking high-cost support should be subject to the same requirements as the ILECs.[65]

The NRBA filed comments on September 15, 2025 which were offered and received as Exhibit No. 9.[66] The NRBA generally supported the framework proposed by the Commission for transitioning NUSF high-cost support and obligations to competitive carriers.[67] The NRBA recommended the Commission define other terms such as "Broadband Services", "Benchmark Rate", "Transitional Support Area", and "RCSA."[68] The NRBA also offered some proposed order language for the Commission's consideration which included an itemized list of commitments which should be

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[59] *See* TR at 80.

[60] *See id.*

[61] *See id.* at 81.

[62] *See id.* at 81-82.

[63] *See* Hearing Exhibit No. 12.

[64] *See* Pre-filed Direct Testimony of Russell Westerhold (September 16, 2025) at 3.

[65] *See id.*

[66] *See* Hearing Exhibit No. 9.

[67] *See* Comments of the Nebraska Rural Broadband Alliance at 1.

[68] *See id.* at 2-3.

included in a transitional support application.[69] The NRBA indicated the Commission should be pressing the granting agency, the ILEC, and the competitive carrier seeking funding to consider reaching as many locations as possible to avoid cream-skimming by either the ILEC or the competitor.[70] The NRBA noted the Commission must coordinate with the ILEC and the FCC when transitioning COLR obligations. [71] Finally, the NRBA emphasized the Commission should avoid duplicative funding but strongly disagreed with Charter's position that providing ongoing NUSF high-cost support for locations with existing broadband service would constitute duplicative funding.[72]

Mr. Andrew Pollock provided testimony on behalf of the NRBA. He stated that the NRBA consisted of both ILECs and CLECs. With diversity of membership, the group was able to collaborate and provide comments.[73] Mr. Pollock stated the grant programs like the Nebraska Broadband Bridge Program, and others largely ignored exchange level or wire center boundaries.[74] Whether that was a good policy or not, it is how the infrastructure grant programs have been set up.[75] That continued with Capital Projects Funds and in the BEAD program.[76] Some carriers, like ALLO, invested private capital to deploy broadband in cities and not the whole exchange.[77] Cable providers have done the same, Mr. Pollock stated.[78] As a result, while the NRBA is open to having discussions with ILECs and the Commission about serving as many locations as possible in specific transition proceedings in the future, Mr. Pollock stated that, ideally, those conversations should happen at the time the grants are considered.[79] Mr. Pollock stated the Rural Sustainability Act now largely requires that

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[69] *See id.* at 4-6.

[70] *Id.* at 7.

[71] *See id.* at 7-8.

[72] *See id.* at 8-9.

[73] TR at 18.

[74] *Id.* at 18-19.

[75] *Id.* at 19.

[76] *Id.*

[77] *Id.*

[78] *Id.*

[79] *Id.* at 20.

coordination.[80] The NRBA generally supported the framework the Commission staff proposed.[81] However, the NRBA also worked on additional definitional terms as well as similar framework requirements and requested the Commission adopt its proposed language. [82] Mr. Pollock testified that there were lots of areas of agreement, the area of disagreement relative to whether entire wire centers or exchanges should be transitioned was settled by the Legislature through the passage of the Rural Communications Sustainability Act ("RCSA").[83]

Ms. Tonya Mayer, CEO of Mobius Communications Company ("Mobius"), also testified on behalf of Mobius and the NRBA. Ms. Mayer testified about why location by location approach to transitioning NUSF high-cost support would be far more advantageous than requiring an entire exchange to quality and receive support in CLEC served areas.[84] To demonstrate her point, Ms. Mayer offered Exhibit 17 which was a map showing areas Mobius serves with fiber and areas which remain unserved.[85] The investment required to meet obligations of areas which were unserved would be substantial, Ms. Mayer indicated.[86] Some of those locations will be served with low Earth orbit satellites and will not have funding available to assist to build to those locations.[87]

Uniti (f/k/a Windstream) filed pre-filed testimony on September 16, 2025, which was offered and received as Exhibit No. 13.[88] Uniti expressed its general support for the purposed framework to transition NUSF high-cost support from incumbent carriers to competitive carriers.[89] Uniti recommended that transitions of support from an incumbent to a competitor should be undertaken for entire

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[80] *Id.*

[81] *Id.* at 21-25.

[82] *See id.*; *see also* Hearing Exhibit Nos. 15 and 16.

[83] *See id.* at 28.

[84] *See* TR at 41.

[85] *Id.* at 40.

[86] *Id.* at 42.

[87] *Id.* at 45.

[88] *See* Hearing Exhibit No. 13.

[89] *See id.* at 1.

exchanges.[90] Uniti suggested the Commission follow the definition of COLR in LB 311 and not include broadband service as a COLR requirement.[91] Uniti further recommended the Commission eliminate an incumbent carrier's obligation to serve areas where modern technologies are deployed.[92]

Mr. Trent Fellers, testifying on behalf of Uniti, was asked to respond to Commissioner questions at the hearing. Commissioner Schram questioned Mr. Fellers about statements in the pre-filed testimony in relation to the obligation to provide voice service throughout the exchange.[93] Mr. Fellers confirmed that he could not cite a statute that required Uniti to provide service over a copper network.[94] Uniti could upgrade service to fiber without Commission approval.[95] Mr. Fellers stated that Uniti, which has carrier of last resort obligations, is required to provide service to everyone in the exchange.[96] In response to Commissioner Schram's question asking why Uniti has not upgraded its network to fiber, he stated that Uniti has diligently tried to expand its fiber footprint however, it is expensive to deploy.[97]

OPINION AND FINDINGS

In the present Order, the Commission adopts an initial framework for transitioning of or porting of NUSF support to competitive eligible telecommunications carriers. The Commission appreciates the comments and testimony provided by all interested parties during the various phases in this proceeding. There was general support for the development of a proposed framework to transition NUSF high-cost support to competitive carriers along with shifting COLR obligations to the supported carrier. There was also consensus on many of the proposed elements, including but not limited to, NETC designation, maintaining affordability benchmarks, and requiring the competitive carrier assuming COLR obligations to take on same responsibilities held by the incumbent

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[90] *Id.* at 2.

[91] *See id.* at 2-3.

[92] *See id.* at 4.

[93] *See* TR at 75.

[94] *See id.* at 76.

[95] *See id.*

[96] *See id.* at 76.

[97] *See id.* at 77.

carrier. There were, however, two significant areas where commenters offered competing recommendations. The Commission discusses these areas of disagreement in more detail below.

First, both Lumen and Uniti recommended the geographic area for transitioning support and COLR obligations be set at the incumbent local exchange or wire center area.[98] In support of this position, Lumen expressed a concern that without such a limitation competitive carriers may choose to serve only the more desirable or easy to serve areas leaving the incumbent carrier with the obligation of serving the remaining higher cost and harder to reach areas. The RIC members, NRBA, RTCN and Charter on the other hand, argued setting the area at the exchange level as Lumen and Uniti suggested is inconsistent with statute, specifically the RCSA. The testimony provided by Mr. Davis and Mr. Pollock argued that the RCSA requires the Commission to make determinations related to NUSF support allocations and distributions at a more granular level than that defined by the incumbents' local exchange boundary.[99] We agree. Specifically, the RCSA requires the Commission to consider distributing NUSF high-cost support to a deployment project area that "***is part*** of a local exchange area" served by the incumbent carrier.[100] (Emphasis added). A "deployment project area" is defined as

> A contiguous geographic area consisting of locations serviceable by broadband or telecommunications services determined by the granting agency for a project funded under a broadband deployment

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[98] At one point in time, the Commission distributed NUSF high-cost grant support to the price cap carriers, including Lumen and Uniti, with the requirement that these carriers deploy broadband networks and offer service at certain speeds throughout the entire exchange. See *In the Matter of the Nebraska Public Service Commission, on its own Motion, to Administer the Universal Service Fund High-Cost* Program, Docket No. NUSF-99, Progression Order No. 2, ORDER ADOPTING FINDINGS AND CONCLUSIONS AND INITIATING CHALLENGE PROCESS (November 4, 2020) We note in that proceeding we note that CenturyLink/Lumen opposed the requirement to provide service to all unserved eligible locations in the exchange as an unrealistic requirement. *See id.* at 30. This approach eventually resulted in carriers declining support in some exchanges and turning NUSF support back to the Commission.

[99] The RIC members, NRBA and RTCN largely supported the Commission's proposed framework but requested the Commission define certain terms. They also recommended some clarifying changes to the term "support area." We add certain defined terms below.

[100] Neb. Rev. Stat. § 86-1505.

> program. A deployment project area may consist of geographical areas in more than one local exchange area.[101]

Our interpretation of the RCSA, in part, led us to the proposal released in our August 26th Order proposing to establish a framework for the Commission to review applications from competitive carriers seeking NUSF high-cost support and the transfer of COLR obligations on a case-by-case basis. The Commission's proposal contemplated a transition of support and obligations for areas coinciding with state or federal broadband deployment grants,[102] NUSF auction support areas,[103] or locations served through private investment. Recognizing the fact that the Commission, the FCC, and other granting agencies have awarded funding for the deployment of broadband capable networks based on varied geospatial footprints, and in light of the availability of public broadband data reflecting deployment at a location-based level, our intention in this proceeding has always been to take a more targeted view of how NUSF high-cost support should be directed to sustain broadband capable networks long term. These goals are not furthered using exchange or wire center based transition areas. Accordingly, we decline to adopt Lumen's and Uniti's recommendation to define "service area" as the incumbent local exchange or wire center area.[104]

We will require petitioners seeking support to file shapefiles of both the geographic area and location specific data for which COLR obligations and NUSF high-cost support is sought. Location data must include location IDs that correspond to the FCC's Broadband Serviceable Location Fabric. Applications are considered a commitment to COLR obligations for the entirety of the area submitted, regardless

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[101] Neb. Rev. Stat. § 86-1503(5).

[102] Many state and federal infrastructure grants have been structured to result in broadband deployment at the sub-exchange level. For example, the Nebraska Broadband Bridge Program ("NBBP") and Capital Projects Fund Programs were structured to permit applicants to define their own project areas. Likewise, the Nebraska Broadband Office ("NBO") established Deployment Project Areas ("DPAs") which do not coincide with incumbent carriers' exchange boundaries.

[103] To the extent that NUSF high-cost support was returned to the Commission, the NUSF high-cost support was auctioned in smaller minimum bidding units (MBUs) where carriers, willing to deploy broadband service in those portions of exchanges, made the commitment to serve those locations.

[104] We encourage carriers to work together on the areas subject to the transitioning support and COLR obligations. The Commission may also work with the parties to ensure that the areas to be transitioned are clear, contiguous, and rationally based. We also note that carriers wishing to find relief from COLR obligations in an entire exchange could consider utilizing the mechanism provided in Neb. Rev. Stat. § 86-165.

of the determination of eligibility for support.[105] Any party receiving NUSF high-cost support in the service area and affected by the petition may file a protest or intervention in the proceeding pursuant to the Commission's Rules of Procedure.[106] The Commission will evaluate whether the area and locations submitted are eligible for support, and may redefine the Support Area and eligible locations based on eligibility. The Commission will also consider such issues on an independent basis and will give consideration to other issues such as the impact of a defined support area on the continuity of service, and consistency with the legislative goals of the universal service fund high-cost program. As indicated in our previous order, the scope and definition of COLR obligations adopted herein are specifically for the purpose of support transition applications to receive NUSF high-cost program support.[107]

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[105] Competitive carriers seeking transitioned NUSF high-cost support may not be eligible to receive support for certain locations. Such support determinations will continue to be made based on factors such as location eligibility (e.g., in-town, competitively served by other wireline competitor, speed testing, etc.), earnings test limitations, and other factors which cause a reduction in NUSF high-cost support.

[106] As we noted previously, a creamskimming analysis has historically been a part of the eligible telecommunications carrier designation process where the applicant proposes to be designated below the study area level of a rural telephone company. *See In the Matter of the Commission on its own motion seeking to establish an interim policy on eligible telecommunications carrier standards*, Docket No. C-3415, Order Adopting Guidelines (June 28, 2005) at 5 para. 4; *See also ETC Designation Report and Order*, 20 FCC Rcd at 6393-95, paras. 48-53. The purpose of a creamskimming analysis to ensure that potential designees could not selectively choose to serve high-density portions of a rural telephone company's study area while receiving support based on the average costs of the rural telephone company in providing service throughout the study area. However, as the FCC has explained, a creamskimming analysis may be less relevant where, the designee will be the only carrier receiving support within the service area and must serve high-cost areas that the marketplace would not otherwise serve absent subsidy. See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6008, para. 165 (2016).

We continue to believe that the NETC designation process may be the appropriate point where a creamskimming analysis may be more relevant. However, we do not plan to foreclose the ability to consider it where relevant in a petition seeking to be the supported carrier in a given support area and taking on COLR responsibilities. As a reminder, carriers seeking NETC designation have an obligation to provide the supported services throughout the entire geographic area in which NETC designation is received within a reasonable period of time.

[107] We note in response to Uniti's concern about defining COLR obligations that LB 4 (2025) included a definition of "carrier of last resort" generally, but for purposes of eligibility of NUSF high-cost support we include requirements consistent with those imposed on incumbent carriers receiving NUSF support which advance the purposes and goals of the NUSF Act.

Second, Charter recommended substantive changes to the Commission's proposed definition of "support area." Charter indicated it had general agreement to the framework, however, it recommended that the definition of support area, and the resulting NUSF high-cost support be limited to locations that lacked broadband service, with exception of locations subject to an enforceable commitment.[108] The RIC members and NRBA opposed Charter's recommendation. RIC argued that adoption of Charter's recommendation would be inconsistent with prior Commission findings. We agree that adoption of Charter's recommendations would be contrary to policy and legal decisions already made by the Commission and we find no persuasive reason to disrupt those prior findings.

In its July 9, 2024 Order, the Commission concluded that "sustainability of broadband networks should be an explicitly adopted goal of the NUSF high-cost program."[109] Subsequently, the Commission determined that locations where broadband service has been deployed with minimum speeds of 100/20 Mbps would be eligible for NUSF ongoing high-cost support.[110] Moreover, the Commission has already considered how locations which are subject to an enforceable commitment pursuant to Neb. Rev. Stat. § 86-324.02 were to be addressed in the distribution calculation. Charter's recommended changes are inconsistent with the Commission's prior findings pertaining to the eligibility and allocation of NUSF high-cost support and we decline Charter's invitation to reconsider these settled issues through a change in the "Support Area" definition.

Several commenters requested the Commission adopt some limited changes and provide additional definitions which are consistent with relevant statutes in Chapter 86 and to help clarify the scope of the transitional support framework. We continue to believe there is a need for both a "Support Area" and "Service Area" definition. We find that the term "Service Area" should remain consistent with the

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[108] *See* Neb. Rev. Stat. § 86-324.02.

[109] *See 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*, NUSF-139, Progression Order No. 2, FINDINGS AND CONCLUSIONS (July 9, 2024) at 13.

[110] *See 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*, NUSF-139, Progression Order No. 5, FINDINGS AND CONLCUSIONS AND ORDER AUTHORIZING PAYMENTS (January 14, 2025) at 11.

definition in the Commission's NUSF Rules and Regulations at § 001.01(U) and used as proposed by the Commission in its August 26th Order. Many of the interested parties focused attention on the definition of "Support Area" and, after further consideration we refine our definition of that term as set forth below. The remaining definitions set forth below should be adopted and made applicable to the framework for transitioning NUSF high-cost support:

1. Broadband Services means Internet services at minimum speeds established under state statute.
2. Broadband Benchmark Rate means the same rate in compliance with the FCC's Urban Rate Survey benchmark rules for Broadband.
3. COLR means carrier of last resort with obligations enumerated in this Order.
4. FCC means the Federal Communications Commission.
5. ILEC means the Incumbent Local Exchange Carrier.
6. ETC means a carrier designated as an Eligible Telecommunications Carrier pursuant to 47 U.S.C. § 214(e).
7. NETC means a Nebraska Eligible Telecommunications Carrier, as defined in Title 291 Neb. Admin. Code, ch. 10, § 001.01(R).
8. NUSF means the Nebraska Universal Service Fund, as defined in Title 291 Neb. Admin. Code, ch. 10, § 001.01(S).
9. RCSA means the Rural Communications Sustainability Act.
10. Service Area means a geographic area designated by the Commission in which an NETC shall provide service.[111]
11. Serviceable Location means a location for which the carrier is capable of initiating telecommunications and broadband services within 10 business days of a request.
12. Support Area means a geographic area consisting of Serviceable Locations designated by the Commission in which an NETC receives NUSF support and has a corresponding duty to provide services as a COLR.
13. Voice Benchmark Rate means the same residential price range as the Commission established by the Commission. *See In the Matter of the Nebraska Public Service Commission, on its own motion, to make adjustments to the universal service fund* mechanism Docket No. NUSF-26, Application No. NUSF-50, Order at p. 9 (Dec. 19, 2006).
14. Voice Services mean telecommunications, as defined under Neb. Rev. Stat. § 86-320.01.

[111] Title 291, Neb. Admin. Code, Ch. 10, § 001.01(U).

In addition, we find that the framework set forth below should be adopted. Any carrier desiring to receive NUSF high-cost support and take on COLR obligations for locations that are currently in an ILEC's traditional exchange may file an application in accordance with the RCSA, the Commission's Rules and Regulations, and Commission orders with the Commission pursuant to the Commission's Rules of Procedure at Title 291, Neb. Admin. Code, Chapter 1.

An application seeking support under this framework ("Support Transition Application") shall include the following:

1. A description of the Applicant's organizational structure, including a certificate of good standing from the Nebraska Secretary of State.
2. A demonstration that the Applicant is an ETC and NETC.
3. A commitment verified by affidavit to comply with all provisions of NEB. ADMIN. CODE, tit. 291, ch. 10, § 004.02(G).
4. A commitment verified by affidavit to fulfill to the Commission's satisfaction the following COLR obligations until relieved of such obligation:
    a. Offer voice service to all locations in the Service Area in compliance with the Commission's rules and regulations.
    b. Offer reliable broadband service to all locations in the Service Area at speeds required by statute.
    c. Offer affordable and reasonably comparable voice services and broadband services to all locations in the Service Area. Rates for voice services may be no higher than the Voice Benchmark Rate. Rates for broadband services must comply with the Broadband Benchmark Rate.
    d. Offer 911 and Telecommunications Relay services.
    e. Participate in the Nebraska Telephone Assistance Program ("NTAP").
5. A specific description of the proposed Support Area which includes GIS data[112] showing the proposed Support Area and

[112] The Application must include supporting map data in shapefile or other GIS-supported format of locations served/to be served and, of the proposed Support Area. The Applicant must identify broadband serviceable locations using FCC fabric data identifiers.

point data containing all broadband serviceable locations served by the applicant with voice and broadband service with speeds of at least 100/20 Mbps.[113] If any submitted locations do not appear in the FCC's National Broadband Map as served at the time of application, applicants should include documentation for those locations showing that they have submitted the information to the FCC as part of the Broadband Data Collection process.

6. A commitment to file the NUSF EARN Form, or any replacement filing, annually.
7. A commitment to file Commission-prescribed ETC and NETC certification reports annually.
8. A commitment to provide interconnection with any requesting carrier on a reasonable and nondiscriminatory basis.
9. A commitment to filing speed test data and meeting speed testing metrics consistent with the Commission's Orders in Docket No. NUSF-133.
10. A commitment that NUSF support received will be used in a manner consistent with the requirements of the NUSF Act (Neb. Rev. Stat. 86-316 through 86-329), Commission Rules and Regulations, and any order or policy of the Commission relevant to the use of NUSF support.
11. An affirmation verified by Affidavit that Applicant is not using or deploying communications equipment or service deemed to pose a threat to national security which is identified on the FCC's *List of Equipment and Services Covered by Section 2 of the Secure Networks Act* anywhere on its network.

For purposes of support allocations for years after 2026, a Support Transition Application must be filed no later than September 1st. The Commission intends to determine all timely filed applications on or before December 31st each year.

As stated previously, we anticipate that as the Commission works through the petition process, new issues may be presented. Accordingly, there may be a need for

[113] 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.

initial flexibility to address some unanticipated issues as they arise. At a future point, we intend to initiate a rulemaking to update the NUSF rules and regulations.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the findings and conclusions set forth herein be, and they are hereby adopted.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 18th day of November, 2025.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director