

Nebraska Universal Service Advisory Board Meeting Friday, April 21, 2023 – 1:30 PM

The Nebraska Universal Service Advisory Board met April 21, 2023. The meeting was held as an in-person meeting with web participation.

Gene Hand, Chair of the Advisory Board, called the meeting to order at 1:30 p.m. Chair Hand stated that a copy of the Nebraska Open Meetings Act is posted in the Commission Hearing Room and, on the Nebraska Public Service Commission website.

The Board went through member roll call with all Board members present announcing their presence. Quorum status was established. The following Board members were in attendance in-person:

Gene Hand
Ben Backus
Gary Needham
Christa Porter
Rod Triplett
Andrew Vinton
Carrie Gans

Advisory Board member in attendance virtually was Al Lubeck. Interested parties in attendance virtually were Joselyn Luedtke.

Present from the Public Service Commission were Cullen Robbins, Jonathan Smith, Brandy Zierott, Justin Williamson, John Monroe, Commissioners Kevin Stocker and Tim Schram. Attending virtually were Victor Kapustin, Camelia Rogers, Dohee Kim and Deb Collins.

Approval of Agenda

Rod Triplett made a motion to approve the agenda, seconded by Christa Porter. (All members said aye). Upon roll call vote of all Board members present, the motion passed unanimously with Board members Hand, Backus, Needham, Porter, Triplett, Vinton and Gans voting in favor.

Introductions

Board members and other in-person attendees introduced themselves and stated their past and current position and experience.

Election of Chair and Vice-Chair

Carrie Gans made a motion to retain Gene Hand as Chair, seconded by Andrew Vinton. Upon roll call vote of all Board members present, Hand, Backus, Needham, Porter, Triplett, Vinton and Gans voting in favor.

Carrie Gans made a motion to retain Christa Porter as Vice-Chair, seconded by Rod Triplett. Upon roll call vote of all Board members present, the motion passed unanimously with Board members, Hand, Backus, Needham, Porter, Triplett, Vinton and Gans voting in favor.

Approval of Meeting Minutes from April 22, 2022 Meeting

Gene Hand asked the Board for any edits or corrections to the meeting minutes from April 22, 2022. No response was received. Motion made by Gary Needham to approve the minutes, seconded by Christa Porter. Upon roll call vote of all Board members present, the motion passed unanimously with Board members Hand, Backus, Needham, Porter, Triplett, Vinton and Gans voting in favor.

Broadband Updates:

a. **Broadband Bridge Program** –

Cullen Robbins provided information to the Board regarding the Nebraska Broadband Bridge Program. The Nebraska Broadband Bridge Act was approved by the Nebraska Legislature and signed by the Governor on May 26, 2021. Since the legislation passed, the Commission has completed two cycles of the Nebraska Broadband Bridge Program which requires 100 Mbps symmetrical service and applicant matching funds. The Nebraska Legislature has appropriated \$20.0M annually beginning with fiscal year 2021-22 to the commission to be distributed as grants through the program and to pay for administrative costs associated with the program. While the Nebraska Broadband Bridge Program is not supported by NUSF, it serves to support additional broadband deployment projects serving unserved and underserved locations within Nebraska. In the 2021 grant cycle, \$19.2M in grants were approved with \$48.2M total of project costs which is expected to bring broadband to 1,765 unserved locations and over 10,800 underserved locations.

In the 2022 grant cycle, the Commission approved 37 projects for \$20.3M in grants to complete over \$30.0M in project costs which is expected to bring broadband to 2,178 unserved locations and 260 underserved locations. During the 2022 cycle, there were more Tier 1 applications involving unserved locations as compared to the applications received in 2021, and with unserved areas receiving the highest priority, more of the Tier 1 applications were approved in 2022 versus 2021.

There is a third cycle planned and a docket has been opened and hearing has been held, in anticipation of Legislature approval of a third cycle.

Gary Needham inquired about process for challenges to applications. Cullen Robbins explained that there is a challenge process for carriers to respond if they are already providing the minimum 100/20 Mbps service in a proposed project area or intend to build to the project area within the next 18 months to provide the minimum 100/20 Mbps service.

Ben Backus questioned what would happen if there were no challenges? Mr. Robbins stated that if no challenges are received, then no issues are assumed and a project is evaluated according to the scoring metrics. Carrie Gans added that outside the challenge process, Commission staff do a detailed review as to which applications meet the criteria for unserved or underserved areas. Additionally, the Commission may intervene if application(s) do not meet the criteria and an area is already fully served.

Mr. Robbins stated that close evaluation of each application is definitely one of the Commission's primary goals.

b. Capital Projects Fund –

Cullen Robbins provided information to the Board about the Capital Projects Fund. This program was created by the U.S. Department of the Treasury and established by the American Rescue Plan Act (ARPA). Nebraska was allocated \$128.7 million total. During the 2022 session, the Nebraska Legislature subdivided Nebraska's allocation by Congressional District and further dictated how this money was to be used. In District 1, at least \$40 million for broadband deployment in unserved and underserved areas. In District 2, no more than \$35 million for multi-purpose community facilities. In District 3, at least \$40 million for eligible projects involving unserved and underserved locations in cities of the second class and villages. The PSC was tasked with administering the broadband deployment grant programs in Districts 1 and 3, and the Nebraska Department of Economic Development will be administering the funding for District 2 projects. In August 2022, the Department of Treasury awarded \$87.7 million for Districts 1 & 3, which includes administrative costs. The PSC grant process for broadband deployment projects in Districts 1 & 3 started earlier this year, with applications due February 24, 2023. A total of 130 applications were received with 66 applications being in District 1 for total grant request of \$133.8M and in District 3 there were 64 applications for total grant request of \$49.2M. The grant awards will be released in late June 2023.

c. Broadband Equity Access Deployment (BEAD) –

Cullen Robbins explained this federal program is administered through the National Telecommunications and Information Administration (NTIA). Funding through BEAD will be distributed to the state to fund projects that expand high-speed broadband. The first priority is to bring service to every unserved location. In 2022, Governor Pete Ricketts selected the PSC to administer the development of the BEAD program. In January 2023, shortly after being sworn in, Governor Jim Pillen released an Executive Order creating a new broadband office to oversee broadband in Nebraska, and placed this office within the Nebraska Department of Transportation (NDOT).

Commission staff will continue to conduct outreach and prep work for getting processes in place. Nebraska's BEAD 5-year plan is to be submitted to the NTIA by August 12, 2023 and the initial proposal is due to NTIA in December 2023. Monies received by Nebraska for the BEAD will be at least \$100M and is likely to be much larger.

Gene Hand spoke to the Board regarding concerns related to the implementation and moving of the BEAD program and called attention to the overall creation and management of the NUSF and how the PSC has been an excellent steward of this and other programs it has administered. Al Lubeck was also complimentary of the way the grant programs have been conducted by PSC staff. Christa Porter also spoke on the Broadband Office interim staff and the amount of cooperation and training that will need to take place between that office and the PSC.

d. Legislative Update –

Cullen Robbins updated the Board on Legislative actions. This year, several bills have been rolled into LB683. LB683 is the bill that creates the Broadband Office and enters the Broadband office into statute. Those bills rolling into LB 683 are: LB63; LB155, LB359,

LB722 and LB412. Cullen Robbins explained each of these legislative bills, which Senator introduced the Bill and its purpose. Also, LB61 regarding dark fiber leasing is still in General File. The bill has been amended, and may be further amended prior to any further action by the Legislature.

Schools and/or Library Updates:

Schools Report: Gary Needham updated the Board on E-rate activities for Nebraska schools as reported by Chris Struebing, the State E-Rate Coordinator with the Nebraska Department of Education. Mr. Needham stated that Nebraska schools have traditionally participated at a high level in the federal E-rate program.

In funding year 2023, Nebraska K-12 submitted 741 funding request line items to the federal E-Rate program requesting a total of approx. \$21.3M in pre-discount funding for both E-rate Category 1 (Data Transmission Services and/or Internet Access) and E-Rate Category 2 (Internal Connections).

For E-rate Category 1, Nebraska K-12 submitted 480 funding request line items for a pre-discount amount of \$9.1M, which was up by 17% in 2023 from 2022. No funding commitments for 2023 have been released by the Federal government, but Nebraska schools traditionally average 67% of costs reimbursed by USAC.

For E-rate Category 2, Nebraska K-12 submitted 261 funding request line items with a pre-discount amount exceeding \$12.1M. This is an increase of 4.5% in 2023 over 2022. The reimbursement of Nebraska schools for Category 2 averages 66%. Applications are funded based on a 5-year budget from July 2021 through June 2026. FY2023 will be the 3rd year of this cycle.

The FCC opened a comment cycle in 2022 regarding a bidding portal to promote fair and open competitive bidding and minimize potential waste, fraud and abuse within the program. One of the proposed changes was to have bids uploaded by the vendors instead of the bids going directly to the applicant. Some states claimed that it would interfere with state and local procurement rules. A decision has not been made yet by the FCC regarding this bidding portal.

The FCC's Wireline Competition Bureau just closed a comment cycle regarding Next Gen Firewalls. This concerns the increase of cyber-attacks to schools. Currently, only the firewall appliance is 100% eligible. Software and other components can be eligible on a 1-year basis with a need to amortize each year for the length of the contract. There are some groups in favor of this change but have asked to keep Category 2 cap for each entity in the 5-year cycle. Opponents to this rulemaking fear that the cost of allowing expansion of current eligibility could greatly increase, bankrupting the program.

Mr. Needham reported on the Emergency Connectivity Fund that provides direct internet access for student's devices and the funding of those devices. There was a 2nd and 3rd wave of funding cycles in 2022, however due to supply chain issues for Category 2, there have been funding extensions and will continue through 2023.

Cullen Robbins inquired as to if the ESU's have a way of tracking if students have access to internet. Mr. Needham responded that many schools do that tracking. This is a component of the technology and planning process that is a part of the E-rate requirement, to make sure that we understand what the needs of the students are. In 2020, when Covid closed many schools, any school that had not recently done a survey of their students' needs, conducted a survey pinpointing which students needed help.

Since Nebraska was one of the first states that opened their schools up to full in-person attendance, we have heard that connectivity has not been a significant issue, especially in the last year. The combination Emergency Broadband and some other programs have helped making sure that students have internet access.

Cullen Robbins then asked if there is information on the schools disseminating information regarding programs such as ACP or Lifeline programs that could assist families with the cost of internet access. Mr. Needham said that he has no information regarding what specifically public schools are doing. Mr. Vinton then stated that ALLO is working with their vendors to develop a product to allow any student that has an authenticated electronic device from school to download a browser extension even if they are not an ALLO customer. As long as they are within range of ALLO routers, ALLO will set up a separate SID connection and they can use the excess bandwidth to access broadband. ALLO also supports the use of eduroam, which allows students to access broadband connections wherever eduroam is supported.

Mr. Needham stated that for K-12 schools, approximately 60% of the school districts are working to implement eduroam. The ESU's have been involved in making sure that the technical components are in place for student devices to be identified and staff as well, to be able to automatically connect to the eduroam platform.

Libraries Report: Christa Porter reported on E-rate activities for Nebraska libraries. USAC has yet to release funding for the first wave of E-rate applications in 2023. Category 1 applications for Internet assistance totaled 65 for \$228,948.30 with 3 applications for Fiber Special Construction. Category 2 applications totaled 4 Internal Connections for a total of \$24,348.16. Ms. Porter said that 6 libraries applied for and received state matching funding for Fiber Special Construction in 2021. In 2022, three libraries were approved and in 2023, three libraries have applied for the Fiber Special Construction -- those three libraries are Gibbon, North Loup and Wausa (Lied Lincoln Township Library). Ms. Porter said that some libraries have been joining Network Nebraska, to get their internet.

Ms. Porter provided a further breakdown of Category 1 and 2 funding approved for libraries in Nebraska back to 2015. Category 1 services provide connections to schools and libraries (data transmission services and internet access and voice services). Category 2 services deliver internet access within schools and libraries (internal connections, basic maintenance of eligible internal connections, and managed internal broadband services). The average discount percent approved by USAC was 74% in 2021 and 2022.

The Emergency Connectivity Fund (ECF) provided \$7.17 billion in funding by the American Rescue Plan Act of 2021 (ARPA) to address the homework gap. These funds further provide off-campus connectivity (wi-fi hotspots and service) for devices such as laptops and tablets. The application criteria for ECF was explained by Ms. Porter. In Nebraska, 25 libraries were approved for \$906,081.77 in ECF awards between July 1, 2021 and December 31, 2023. That funding breakdown is: \$581,656.05 for equipment and \$324,425.72 for services.

PSC NUSF Program Reports:

Remittances/Fund Balance Report –

Cullen Robbins reported that NUSF remittances received total approximately \$4.2M monthly and \$50.4 annually through the \$1.75 per connection surcharge for Business and Residential lines, and other services that are still assessed at the 6.95% rate, as well as prepaid surcharges

forwarded to the PSC by the Department of Revenue. Information was provided showing what monthly and annual remittances would be at \$1.85 per connection for comparison. At \$1.85/connection the revenue would increase approximately \$200,000/per month and \$2.5M/annually. Mr. Robbins stressed that he was not suggesting that an increase from the current \$1.75 to \$1.85 per connection be recommended but was including this information solely for comparison purposes.

Mr. Robbins reviewed the Monthly NUSF Snapshot information in the Board's packet. The NUSF Snapshot breaks down the current cash balance v. committed projects by docket for the February 2023 data period. To date, the NUSF balance minus commitments equals \$3.5M. Many of the high-cost monies are paid out only on a reimbursement basis which maximizes accountability of administering these programs, however over time, dollars are accumulating increasing the Fund's balance.

Carrie Gans explained to the Board that the Snapshot Report does not include some of the deductions for the smaller programs that are paid out of the fund such as the Telehealth and Lifeline Programs.

A third chart handout was reviewed by Mr. Robbins, showing an annual budget perspective of how funds were allocated for NUSF, including High Cost, in 2022. There was also a proposed breakdown for 2023 with all program commitments, including the smaller programs that NUSF supports. In 2022, the Commissioners wanted to spend-down the available uncommitted balance. This chart reflects the Commissioners request, allocating additional funding to several programs in the 2023 proposed budget.

Program Updates – Nebraska Telephone Assistance Program (NTAP)

Cullen Robbins reported on the NTAP program, which provides \$3.50 of state subsidy per household, in addition to the Federal subsidy of up to \$9.25 per household for eligible participants as determined through the "National Verifier," a federal system. The amount funded in 2022 was \$93,254. The Commission has budgeted \$200,000 for the program in 2023.

Gene Hand asked why the proposed 2023 budget was increased to twice the amount for NTAP. Mr. Robbins reported that the program has been diminishing the last several years however the proposed budget is a placeholder for that amount, hoping to increase program participation. The FCC is phasing-out support of the voice-only service support, with more support going towards broadband/internet. There has been discussion on how the PSC can still support those voice-only customers, while managing the increase of the broadband/internet customers.

NUSF-99 High-Cost Program

Cullen Robbins provided information about the NUSF-99 Price Cap Carrier High-Cost Program. Price-cap carriers include CenturyLink, Windstream, and Frontier.

In 2022:

- Windstream committed to do projects in the Jansen and Fairbury areas.
- CenturyLink committed to do projects in the Grand Island area in addition to prior year commitments in Schuyler, Tekamah, Wood River.
- United Telephone Company of the West committed to do projects Minatare and Morrill.

In 2023, the Commission allocated \$21.5 million for price-cap carriers. This includes \$2.15 million in ongoing support and \$19.35 million in broadband deployment support.

NUSF-108 High-Cost Program

Cullen Robbins provided information about the NUSF-108 Rate-of-Return High-Cost Program. This program was designed so that as companies complete build out projects, the funding is shifted from broadband deployment support (BDS) to ongoing support.

In 2023, \$24.1M has been allocated for rate-of-return carriers. This includes \$15.2 million in ongoing support, \$6.9 million in broadband deployment support, and \$2.0M for BDS capped location support. The capped location support includes areas that are supported through the federal Alternative Connect America Model (ACAM) program where there is some support already received for broadband deployment, but not enough to provide fiber to the premises. This additional support is intended to incentivize carriers that received some Federal support to exceed the minimum requirements for the ACAM program.

NUSF-131 – Reverse Auctions

Cullen Robbins explained the “reverse auction” process. The Legislature granted the Public Service Commission authority to conduct a reverse auction with funds withheld or reclaimed from other carriers. The Commission passed rules and guidelines with a broad framework for how a reverse auction would be conducted. In February 2022, the Commission entered NUSF-131 setting out a proposal for how an auction would be conducted and set up a workshop that was held on March 29, 2022. The order issuing the reverse auction schedule and procedures was entered on June 28, 2022 and the Commission made available approximately \$13.1M that was returned or withheld from Frontier Communications for the reverse auction. In the first auction there were four bidders deemed qualified to participate in the auction, but during the auction only one bid was received and awarded. The Commission is currently exploring how the reverse auction process might be improved to increase participation. Cullen Robbins verified that reverse auction awards can only be granted within the service area(s) from which they were withheld.

NUSF-92 – Wireless Tower Program

Cullen Robbins reported that in 2022, the Commission approved \$8.0M to be made available during the application window of March 1, 2022 thru April 15, 2022. There were 2 applicants submitting applications for tower projects. The Commission approved applications from U.S. Cellular for 11 sites in Ponca, Elmwood, Murray, Ayr, Brainard, Edgar, Adams, Newcastle, Tobias, Cedar Rapids and Niobrara. The Commission approved applications from N.E. Colorado Cellular d/b/a Viaero Wireless for 4 tower sites in Filley, DeWitt, Goehner and Diller.

In 2023, the Commission approved \$6.0M to be made available during the application window of May 1, 2023 thru June 15, 2023.

NUSF-57 – Telehealth

Carrie Gans reported that Nebraska has provided funding for telehealth services since 2005, which is supplemental to the Federal program. In 2021, the Commission modernized the Nebraska Telehealth program to incorporate changes made by the FCC when they expanded the federal Rural Health Program to include a new subprogram, Healthcare Connect Fund (HCF). The HCF provides a 65% discount on eligible costs. The NUSF-57 Nebraska

Telehealth program is intended to mirror the HCF and can provide supplemental and secondary support of up to 25% discount on eligible costs. The total support for the Nebraska Telehealth program is set at \$1.5M per year. Applicants must show they are participating in the Federal program when applying for state support.

For the previous years, in 2021 Nebraska received 153 applications with 146 approved and \$415,579 in NUSF-57 commitments. In 2022, Nebraska received 228 applications with \$558,028 in requested grant funds. For funding year 2023, \$1.5M has been allocated for the Nebraska Telehealth Program through NUSF funds. The FCC has extended their filing deadline to May 1, 2023, for funding year 2023. The NUSF-57 application window mirrors the FCC filing window with NUSF-57 applications due 15 business days after the FCC filing window closes.

NUSF-117 – Special Construction Matching Fund

Discussion was held on docket NUSF-117. Carrie Gans reported that in 2021, the NUSF received 6 library applications, with 1 public school application. NUSF-117 funding commitments were approved for 7 applications totaling \$11,856.68 in the areas of Verdigre, Bayard, Clay Center, Bancroft, Beatrice, Wymore and Southwest Public Schools. Clarification was made that NUSF-117 is a supplemental program to the Federal program, with discount ranges between 20% to 90% in assistance, depending upon several factors that assess need.

In 2022, NUSF-117 received 3 library applications, and the Commission approved \$5,814.00 in support for these projects. In 2023, 5 applications were received and 4 were approved from 1 school and 3 libraries. The application not approved was for Lincoln Public Schools for fiber replacement, which was not considered a new fiber build. The total amount of NUSF-117 funding commitment was \$4,303.56.

A progression order in this docket was recently opened, and a comment cycle with initial comments due May 26, 2023, and reply comments due June 16, 2023, is underway. The Commission is requesting comments on: a) how can the Commission mitigate existing issues preventing access to the program; b) what services that are federally defined are eligible expenses within the federal E-Rate Program should be eligible for reimbursement in the Nebraska NUSF-117 program and what conditions and limitations should apply and, 3) should Nebraska's NUSF-117 program be continued for another four years.

Discussion was held on the amount of money awarded versus the amount of money remaining for this project. Carrie Gans received data from Network Nebraska that 100% of Nebraska public schools were fiber connected. Gary Needham clarified that 100% of Nebraska school districts are fiber connected, but there are some rural elementary schools that are fiber connected. There are 227 total libraries that meet the definition of legally established libraries by Nebraska State Statute. Of those, only 94 are fiber connected.

Christa Porter clarified the E-rate discounts that libraries receive include ongoing funding. Currently, on the state level, the E-rate discounts is only for the construction of a new fiber connection. There have been several libraries that looked into applying for the new special construction discounts, however, could not afford the ongoing monthly costs. Ms. Porter also shared that all of the libraries that received the new fiber special construction except for Lincoln, received 80% discounts rate from E-rate, then the state matching funds paid 10% and

then E-rate federal matched the state's 10% so they received 100% discount. But the question remains whether they can afford the ongoing monthly costs going forward.

High-Cost Reform

Cullen Robbins explained the High-Cost program is due to be updated and modified. Also, since the BEAD program has been implemented by the Federal government, Commission staff is assessing what changes need to happen to adapt to the significant broadband buildout that is expected.

NUSF-4 – Discussion and Action for Recommendation of the NUSF Surcharge

Cullen Robbins brought the Board's attention back to the Snapshot report.

The committed balance of \$120M is the amount approved by the Commission to be allocated for specific programs, but not yet disbursed. The committed balance is impacted by the reimbursement methodology in place for the larger grant programs. Typically, carriers must first incur costs for the build-out and submit documentation of the costs before the Commission will disburse funds. Since many projects have a multi-year build-out, some projects may be reimbursed over several years. As reimbursement requests are approved, the committed balance amount would decrease.

The uncommitted balance is currently \$3.5M. This includes dollars used to pay operating and administrative costs and smaller programs as previously discussed.

Gary Needham made a motion to recommend to the Commission that the current surcharge rate of \$1.75 per line for business and residential customers be retained and, depending on future comments received by the Commission in NUSF-117, to potentially increase the level of NUSF-117 funding in 2024. Rod Triplett seconded the motion. Upon roll call vote of all Board members present, Hand, Backus, Needham, Porter, Triplett, Vinton and Gans voting in favor.

Other Business

No other business was discussed.

Public Comments

Gene Hand invited the public to address the Board. No public comments were received.

Adjourn

Ben Backus made a motion to adjourn the meeting, seconded by Carrie Gans. Upon roll call vote of all Board members present, Hand, Backus, Needham, Porter, Triplett, Vinton and Gans voting in favor. The meeting adjourned at 3:21 p.m.