



BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

**In the Matter of the Nebraska Public
Service Commission, on its own motion,
to establish reverse auction procedures
and requirements.**)
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**Application No. NUSF-131
Progression Order No. 1

ORDER SEEKING COMMENT**

INITIAL COMMENTS OF WINDSTREAM

Windstream Nebraska, Inc. and its affiliates (collectively “Windstream”) hereby respectfully file these comments as permitted by the Order Seeking Comment (the “Order”) issued by the Nebraska Public Service Commission (“Commission”) on March 14, 2023, and state as follows:

I. Introduction

Windstream appreciates the opportunity to provide comments in this docket as the Commission works to improve the reverse auction established to carry out Neb. Rev. Stat. § 86-330 (2018). Further, Windstream appreciates the Commission’s continuing efforts to improve the Nebraska Universal Service Fund (“NUSF”) process, particularly in light of other federal funding opportunities available to expand Nebraska’s broadband infrastructure in recent years. Creating a streamlined and cohesive expansion effort amongst various programs will benefit the Commission, broadband providers, and – most importantly – the unserved and underserved consumers of Nebraska.

As a preliminary matter, Windstream continues to advocate for the NUSF-99 program to return to a NUSF 99 application-process funding mechanism. Under the prior model, Windstream filed approximately one hundred (100) NUSF-99 applications to expand broadband access to almost 17,000 households in rural Nebraska. Windstream has continued to use its funding under the new model to expand fiber access in exchanges within its territory. However, the NUSF cost

model and program restrictions have made it increasingly difficult to engineer projects where the maximum available funding achieves an acceptable financial outcome.

II. Response to the Commission's Questions

A. Minimum Bidding Units

In the event the Commission continues to distribute NUSF funds in a manner other than grant-based project reimbursement, Windstream asks the Commission to align the NUSF and the Reverse Auction. Under the NUSF, carriers are required to deliver broadband to 100% of the eligible households within an exchange. To require less of a bidder in the Reverse Auction directly disadvantages incumbents that have carrier of last resort obligations in the exchange. In Windstream's view, incumbents and new carriers should be required to meet the same standard, whether that is MBUs or whole exchanges.

B. Reserve Price for MBUs

Windstream supports increasing the reserve prices for MBUs under the current model if incumbents are not excluded from bidding or, better yet, are offered the right of first refusal. If MBUs will be smaller than the total exchange, the incumbent with carrier of last resort obligations should be afforded the opportunity to benefit from state support where the capital contribution for a whole exchange build may not be possible. However, again, Windstream's preference is to revert the NUSF program to a grant-based program or, alternatively, for NUSF and Reverse Auction participants to be subject to the same standards and requirements.

C. Participation by Providers Who Returned Support or from Whom Support Was Withheld

As alluded to in previous responses, Windstream supports the Commission's proposal to allow incumbents to participate in the Reverse Auction. Increased funding, as well as MBUs smaller than an exchange, in certain instances may increase the likelihood that an incumbent

provider could serve the area. Allowing incumbent participation not only decreases the likelihood of overbuild, it also reduces the complications of potential transfers of carrier or last resort obligations.

D. Participation by Fixed Wireless Providers

Windstream believes all carriers should be subject to the same vetting and licensing requirements, regardless of the technology to be utilized for a proposed project. However, Windstream supports the Commission requiring additional evidence regarding the technological capabilities of any non-fiber technology that demonstrates the non-fiber technology can meet the minimum speed requirements required by law and/or the program.

If the Commission implements the speed testing requirements for fixed wireless providers proposed in the Order, Windstream recommends the speed testing account for varying distances from the radio and other evidence that may enable the Commission to determine the success of widespread deployment in meeting symmetrical speed requirements. Likewise, Windstream would recommend these standards apply to any non-fiber solution.

E. Ongoing Support

Windstream believes the Reverse Auction should be used to expand broadband access to unserved and underserved areas and that ongoing support is better housed in the NUSF program. This approach aligns with the Legislature’s directive in NEB. REV. STAT. § 86-330 to use redirected funds “to support high-speed Internet infrastructure deployment projects in unserved or underserved exchanges within the State of Nebraska.”

F. Carrier of Last Resort

Windstream does not believe that the provision of ongoing support to a successful bidder should be considered a de facto change in carrier of last resort obligations. However, the

Commission should either develop a streamlined process to allow the incumbent carrier to initiate a transfer and or relinquishment of its carrier of last resort obligations to a successful bidder or follow the Federal Communications Commission’s (“FCC”) well-established process under Section 214. Ultimately incumbents should not remain obligated as the carrier of last resort provider if the Commission chooses to grant ongoing network support to another provider, and the transferring of those obligations should not be encumbered any further than the current FCC requirements.

III. Conclusion

Windstream appreciates the opportunity to provide comments in this matter and looks forward to continuing its work with Commission to expand available high-speed broadband in Nebraska.

Respectfully submitted this 14th day of April, 2023.

WINDSTREAM NEBRASKA, INC.,

s/ Mary Vaggalis

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Certificate of Service

The undersigned hereby certifies that on this 14th day of April, 2023, one (1) electronic copy of the foregoing Initial Comments of Windstream was delivered to the Nebraska Public Service Commission at psc.nusf@nebraska.gov.

s/ Mary Vaggalis

Mary Vaggalis