

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. NUSF-131
Public Service Commission, on its) Progression Order No. 4
own Motion, to establish reverse)
auction procedures and requirements.)

COMMENTS OF HAMILTON LONG DISTANCE COMPANY, HAMILTON TELEPHONE COMPANY AND NEBRASKA CENTRAL TELEPHONE COMPANY

Hamilton Long Distance Company, Hamilton Telephone Company and Nebraska Central Telephone Company (the “Hamilton Consortium”) submit these Comments in response to Progression Order No. 4 entered by the Nebraska Public Service Commission (the “Commission”) in this docket on May 13, 2025 (“*Progression Order No. 4*”).

The Hamilton Consortium has participated in each of the reverse auctions conducted by the Commission pursuant to Neb. Rev. Stat. § 86-330. In fact, Hamilton Long Distance Company was the only bidder in the 2022 Reverse Auction and its bid for Ord_3000 MBU was approved by the Commission.¹ Subsequently, in the 2024-I Reverse Auction the Hamilton Consortium bid on and was awarded ten (10) MBUs serving an estimated 24 locations, bidding at the gigabit tier.² Further, in the 2024-II Reverse Auction the Hamilton Consortium again bid on and was awarded ten (10) MBUs serving an estimated 25 locations, bidding at the gigabit tier.³

¹ See, *In the Matter of the Nebraska Public Service Commission, on its own motion, to establish reverse auction procedures and requirements*, Application No. NUSF-131, Order Issuing Initial Auction Results (Aug. 20, 2022) (“*NUSF-131*”).

² See, *NUSF-131*, Progression Order No. 2, Order Issuing Initial Auction Results (Mar. 26, 2024) and Order Releasing Final Auction Awards, in Part (May 14, 2024).

³ See, *NUSF-131*, Progression Order No. 3, Order Issuing Initial Auction Results (Sept. 24, 2024) and Order Releasing Final Auction Awards, in Part (Nov. 19, 2024).

In *Progression Order No. 4* the Commission states that “[w]inning bidders are subject to post-buildout speed testing pursuant to the Commission’s speed testing requirements as set forth in Commission Docket No. NUSF-133.”⁴ However, the Commission also acknowledges in *Progression Order No. 4* that carriers which successfully bid for gigabit tier reverse auction projects are experiencing technical issues regarding the ability to demonstrate that as built networks are capable of delivering speeds of 1 Gbps/500Mbps.

The Commission poses the following questions in *Progression Order No. 4* (listed in italics below) in response to which the Hamilton Consortium provides comments and recommendations.

The Commission seeks feedback as to whether its understanding of the issue [regarding a reverse auction rewarder’s technical ability to test a network’s capability to deliver 1 Gbps service] is accurate, and if so, how this issue might be remedied. If the Unified Framework is not suitable for reverse auction awarders, is the Original Framework a feasible option? If not, what barriers exist to carriers meeting speed testing requirements under the Original Framework?

Response: The Hamilton Consortium believes that the Commission’s description in *Progression Order No. 4* of the technical limitations regarding speed testing of a reverse auction location for availability of 1 Gbps broadband service is accurate.⁵ Because transport or protocol overhead for a reverse auction location may consume up to six percent (6%) of total available bandwidth, speed tests at these locations cannot produce measurable results above 940 Mbps.

The Hamilton Consortium respectfully submits that the foregoing testing results do not need to be “remedied” as suggested in *Progression Order No. 4*. The 940 Mbps network

⁴ *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, Order Revising Speed Testing Requirements (Oct. 8, 2024) (“*NUSF-133 Order*”).

⁵ See, *Progression Order No. 4*, p. 3.

capability plus the bandwidth capacity consumed as a part of the testing overhead should be accepted by the Commission as a *de facto* demonstration that the broadband service accessible at the tested location is compliant with the 1 Gbps reverse auction bid requirement. The Hamilton Consortium recommends that the Commission modify the Unified Framework to reflect the fact that the foregoing test result is a satisfactory demonstration of the availability of 1 Gbps broadband service at the tested reverse auction location.

Regarding whether the Original Framework is preferred testing protocol as compared to the Unified Framework, in the Hamilton Consortium's opinion, the answer is no. The Commission made several meaningful refinements when it adopted the Unified Framework that the Hamilton Consortium views as positive. However, the 2024 Reverse Auctions are unique as the only State program providing broadband deployment support in which a recipient could be required to test at 1 Gbps/500Mbps speeds. This unique speed buildout commitment creates speed testing issues confined to testing for 1 Gbps availability. As such, if the Commission implements any speed testing protocol modifications, such modifications would only apply to a reverse auction bidder whose successful bid was at the 1 Gbps/500Mbps tier. The proposed reverse auction speed testing protocols that the Hamilton Consortium outlines below should build on, and not abandon, the meaningful changes incorporated into the Unified Framework.

In addition to the Hamilton Consortium's recommendation that the Commission recognize that a 940 Mbps speed test result is reflective of a 1 Gbps capable network, the Hamilton Consortium also recommends that the Commission allow flexibility in the testing protocol provided by the Unified Framework to be applied to 1 Gbps tier reverse auction projects. The Hamilton Consortium has spent considerable time and expense establishing a speed testing program that conducts speed tests at the customer premises. Although that testing

program has the technical capability to demonstrate test results that are in excess of 100/100 Mbps, it is not capable of delivering test results *at the customer premises* that approach 940 Mbps. This is a limitation of the speed testing program, not the network. Specifically, this limitation exists because the speed testing program includes processing of test data through the optical network terminal (“ONT”) located at the customer premises and although the Hamilton Consortium’s installed ONT can deliver 1 Gbps broadband service to a customer’s location, the CPU that is a part of the ONT is unable to process speed tests at 1 Gbps. The Hamilton Consortium is aware that ONTs or other testing devices are available that can measure broadband speeds at the customer premises at speeds up to 940 Mbps. However, there are real barriers to implementation of these devices, namely the time and expense to acquire the upgraded testing equipment and to deploy it at the customer premises.

The Hamilton Consortium respectfully submits that the costs associated with this testing equipment upgrade as well as customer inconvenience resulting from equipment replacement at the customer’s premises are not practical and that the Commission should approve the following alternative testing procedure for reverse auction participants that bid at the 1 Gbps/500Mbps tier:

- (a) For the requisite number of locations included in a reverse auction project bid at the 1 Gbps tier, conduct speed tests to confirm availability of a minimum of 100/100 Mbps at the customer’s premises using the existing Unified Framework testing protocol; and
- (b) supplement the foregoing speed tests with one or more tests performed between the central office (“CO”) optical line terminal (“OLT”) and ONT connected to a testing device located at the CO to confirm availability of a minimum of 940 Mbps on the tested facility on a port adjacent to a project customer port in order to demonstrate that the network is capable of delivering the required speed to the customer without the cost and inconvenience of placing additional equipment at the

customer's premises. These tests will demonstrate that the reverse auction locations fed by the CO are capable of receiving broadband speeds that meet the requirements of the 2024 Reverse Auction 1 Gbps speed tier. Additionally, the Commission could require that a qualified engineer certify that the network is capable of delivering the required broadband speeds to all locations in the project area.

The Hamilton Consortium recommends modifying the speed testing requirements of the Unified Framework for the 2024 Reverse Auctions to permit speed testing as suggested above. This is a unique situation applicable only to 2024 Reverse Auction projects bid at the 1 Gbps tier. The suggested solution is pragmatic, as well as consistent with the policy objectives that underpin the Commission's implementation of speed testing.

Additionally, the Commission seeks comment as to whether any specific elements of either speed testing framework pose difficulty for awardees in the reverse auction program. Do carriers generally have the capability to perform tests demonstrating a full gigabit? If not, what barriers exist to obtaining adequate testing under current speed testing rules?

Response: Please refer to the preceding response and comments for the Hamilton Consortium's answers to these questions.

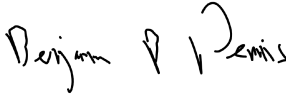
Do any other challenges in relation to speed testing exist which are specific to the reverse auction? If so, should any changes be made to the speed testing framework for reverse auction awardees? Are there any further changes the Commission should consider? Should the Commission consider any modifications to its speed testing rules, as applied to the reverse auction program, to accommodate these issues?

Response: The Hamilton Consortium recommends that the Commission adopt the suggested speed testing protocol described above for the reverse auctions based on the unique circumstances of the 1 Gbps speed tier.

The Hamilton Consortium appreciates the opportunity to provide these Comments in response to *Progression Order No. 4* and looks forward to continuing its participation in this proceeding.


Dated: June 10, 2025.

HAMILTON LONG DISTANCE COMPANY,
HAMILTON TELEPHONE COMPANY AND
NEBRASKA CENTRAL TELEPHONE COMPANY

By: 
Benjamin Dennis, NE Bar No. 24793
1001 12th Street
Aurora, NE 68818
Benjamin.dennis@hamiltontel.com
Attorney for the Hamilton Consortium

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 10th day of June 2025, an electronic copy of the foregoing Comments was delivered to the Nebraska Public Service Commission at psc.nusf@nebraska.gov.



Benjamin Dennis