

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of the Nebraska Public ) Application No. NUSF-139  
Service Commission, on its own Motion, to ) Progression Order No. 7  
consider appropriate modifications to the )  
high-cost distribution and reporting ) **COMMENTS**  
mechanisms in its Universal Service Fund )  
program in light of federal and state )  
infrastructure grants.

**NEBRASKA RURAL BROADBAND ALLIANCE**

The Nebraska Rural Broadband Association (“NRBA”),<sup>1</sup> through its attorneys of record, Rembolt Ludtke LLP, respectfully submits these comments in response to the *Order Seeking Comment and Setting Workshop* entered by the Public Service Commission (“Commission”) on June 20, 2025 (“Progression Order No. 7” or “PO7”).

**Minimum Support**

The NRBA notes the Commission’s following statement that begins on the first page of Progression Order No. 7:

“Interested parties may file additional comments in response to all of the issues set forth in the Commission’s April 8, 2025 Order (PO6) to the extent they wish to do so. However, in the coming months the Commission will focus its attention on two main issues...”

As the Commission explained, those two main issues involve (i) the framework for transitioning Nebraska Universal Service Fund (“NUSF”) support and its corresponding regulatory obligations, and (ii) the appropriate model or models for allocating NUSF support.

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<sup>1</sup> For purposes of this proceeding, the NRBA consists of the following carriers: Cambridge Telephone Company; Glenwood Telephone Membership Corporation; Glenwood Network Services; Glenwood Telecommunications, Inc.; Hemingford Cooperative Telephone Co.; Mainstay Communications; Midstates Data Transport, LLC dba Stealth Communications; Mobius Communications; Pinpoint Communications; Plainview Telephone Company; Stanton Telecom, Inc.; Town & Country Technologies; WesTel Systems, dba Hooper Telephone Company.

Progression Order No. 7 does **not** seek comment specifically on issues related to what the Commission called a “minimum support amount,” which were raised in Progression Order No. 6 entered April 8, 2025 (“PO6”). The NRBA supports the concept of establishing a simplified formula, such as the “minimum support base amount” discussed in PO6 or a method that allows carrier-specific showings to derive a minimum support base amount for small carriers. Without such a methodology, these carriers would see NUSF support drastically reduced by a cost model that does not accurately project costs for such carriers. The Commission eased the impact of SBCM model adjustments and a new overearnings redistribution methodology by using what it referred to as a “glide path” during the 2025 transition period. In PO6, the Commission recommended replacing that glide path with a more permanent minimum support amount. The NRBA generally supports this approach.

The NRBA, however, also supports the Commission’s plan to focus on the two “main issues” described above at the present time. In fact, decisions the Commission makes about the best cost model or models to utilize will undoubtedly have an impact on the issues relating to a minimum level of support. Those decisions also will affect the EARN form issues raised in PO6. Those issues, too, are important and ultimately will need to be addressed. The NRBA reserves the right to weigh in more specifically on issues related to minimum support and the EARN form at an appropriate point in this proceeding and does not plan to provide detailed comments or testimony until after the hearing scheduled for July 15, 2025.

#### **Framework for transitioning support & COLR**

Generally, the NRBA supports the framework proposed by the Commission for transitioning NUSF high-cost support and obligations to competitive carriers. The framework is consistent with the Rural Communications Stability Act<sup>2</sup> and the

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<sup>2</sup> NEB. REV. STAT. §§ 86-1501 – 86-1507.

Telecommunications Exchange Deregulation Act, which will become effective September 2, 2025.<sup>3</sup> While the list of “elements” that must be submitted with an application for transition of support is long, the requirements are reasonable given the fact the applicant is seeking public funds. The requirements will help ensure applicants are properly vetted and that other official commitments are made by the applicant to ensure future regulatory compliance and accountability. The Commission is to be commended for taking bold steps in the past few years to improve accountability. The application requirements are consistent with that prudent approach to ensure public funds are responsibly stewarded.

### **Element C: COLR Obligations and Service Territory**

One of the elements the Commission proposes to require with a transition application is an “election to take on COLR obligations in the described service territory with a specific description of the described service territory.”<sup>4</sup> The NRBA respectfully recommends the Commission define COLR obligations. First, any official requirement of the Commission should explain that COLR is an acronym for carrier of last resort. The Commission should further define what the COLR obligations include. Neither the term nor such obligations are set forth in any state statute, rule, regulation or order of the Commission, as far as the NRBA is aware. The NRBA suggests that the Commission include such things as duties to provide voice services consistent with the Commission’s rules and regulations, Internet service at statutorily required speeds, and reliable access to 911 and Telecommunications Relay services. All of the foregoing are encompassed by other specific elements that must be included with a transition application. The Commission might consider organizing those elements together as it finalizes the order of the requirements.

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<sup>3</sup> LB311 §§ 1-11 and 21.

<sup>4</sup> PO7, p. 1.

Further, with regard to the PO7 element referenced above, the NRBA would recommend the Commission use consistent language when referring to “service territory” throughout the application requirements – perhaps by defining a term. In some places the Commission uses the term “service territory.” In others, it uses “designated service area,” while in others it uses “service area.”

Importantly, the definition should be based on locations subject to the support that is transitioning. The NRBA would be glad to help wordsmith a proper definition that is consistent with state statute. It should reference location IDs assigned by the Federal Communications Commission (“FCC”) and other information the Commission identifies in Footnote 4 of Progression Order. No. 7.

The Commission’s clear policy is to distribute high-cost support on a location basis. That being the case, the Commission must be mindful that it cannot impose COLR obligations on competitive carriers for locations they do not serve or for locations for which they choose not to accept support.

At the hearing, the NRBA can give examples of why its members might not accept support for certain locations, at least for a year. Cable providers have demonstrated the feasibility of serving rural locations the Commission has classified as high-cost without NUSF support. State law makes clear that COLR obligations cannot be forced on a provider.<sup>5</sup>

Finally, in line with the COLR obligations applying only to the specific locations identified in a provider application, the Commission should clarify that all of the framework requirements outlined in PO 7 (specifically items 4a. through 4m.) apply only to the locations specifically included in a provider’s application.

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<sup>5</sup> See NEB. REV. STAT. §§ 86-1506.

## **Element G: Affordable Service**

The Commission proposes to require applicants to make a commitment to offer “affordable and reasonably comparable services at a rate which is at or below the benchmark rate established by the Commission.” NRBA members have a demonstrated history of offering services at affordable rates that are reasonably comparable to rates in urban areas, as is called for under the NUSF Act.<sup>6</sup> In its official requirements, the Commission should make clear the “benchmark rate” to which it is referring.

## **Element J: Interconnection**

The Commission proposes to require applicants to commit to providing “interconnection with any requesting carrier on a reasonable and nondiscriminatory basis.” The NRBA agrees that carriers are already legally required to allow for interconnection under 47 U.S.C. § 251(a). The NRBA, however, would ask that the Commission acknowledge that interconnection with a carrier receiving transitioned NUSF support under the new paradigm does not waive the rural exemption found under 47 U.S.C. § 251(f).

## **Cost Model Updates**

The Commission seeks comments relating to the appropriate methodology for allocating high-cost support. Specifically, the Commission seeks comments on whether to (i) keep using the current SBCM model, (ii) use a new model it describes as carrier agnostic, or (iii) employ some combination of the two.

At this point, the NRBA is not convinced that a carrier agnostic model would appropriately reflect provider costs for existing fiber networks. Since, however, we cannot analyze the carrier agnostic model without further details, the NRBA respectfully urges the Commission to retain CQA to run **both** models – the SBCM and the carrier agnostic models.

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<sup>6</sup> See NEB. REV. STAT. § 86-323.

These actions should be taken expeditiously. The NRBA understands cost-modeling is expensive and that running two models will increase expenses. Given the NUSF program pays tens of millions in public funds to support communications infrastructure in high-cost areas, the relatively minor expense of properly modeling support is justified if the Commission is considering the use of a carrier agnostic model for the calculation of NUSF distributions.

After CQA has run both models, then the Commission should make the results available to the parties and the public. At that point, the Commission might consider whether another technical conference would be worthwhile. After reasonable time to review the modelling results, the Commission should take further comments on such questions as (i) which model to use, (ii) whether some combination of the models' results makes sense, (iii) whether to use one model for locations in legacy Rate-of-Return areas and a different model for locations in legacy Price Cap areas, (iv) whether adjustments should be made to the model or models, and (v) other issues that may come to light after the modelling results have been studied.

Further, the Commission seeks comments on whether to update the following inputs in the model:

- Plant Mix,
- Labor Rates,
- Optical Network Terminal ("ONT"),
- Weighted Average Cost of Capital ("WACC").

The NRBA recommends updating the Plant Mix inputs, including but not limited to the ratios of aerial to buried fiber; Labor Rates; upgraded ONTS; and the WACC. Plant and labor costs have increased since the model inputs were initially developed and need updating to better represent current costs. Other equipment upgrades have been necessary since cost inputs were developed. For example, to keep up with customer demand, ONTs will require

sophisticated and expensive upgrading. Cost data will be meaningless if it does not approximate **current** costs.

Finally, the Commission seeks comments on how often it should update the cost model or models. The NRBA respectfully requests the Commission consider this question after the results of model runs have been reviewed by the parties. The issue need not be resolved at the present time. The NRBA reserves the right to comment on the question later.

### **Conclusion**

The NRBA will provide additional comments and looks forward to responding to the Commission's questions at the hearing on July 15.

DATED: July 1, 2025

#### NEBRASKA RURAL BROADBAND ASSOCIATION

Cambridge Telephone Company;  
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Data Transport, LLC dba Stealth  
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### **CERTIFICATE OF SERVICE**

The undersigned certifies that an original of the above ***Comments*** of the Nebraska Rural Broadband Association were filed with the Public Service Commission on July 1, 2025, and a copy was served via electronic mail, on the following:

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