

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public	)	Application No. NUSF-133,
Service Commission, on its own motion,	)	Progression Order No. 3
to implement standards for the	)	
verification of broadband service provider	)	
coverage and speed data.	)	

COMMENTS OF THE NEBRASKA RURAL INDEPENDENT COMPANIES

The Nebraska Rural Independent Companies ("RIC")¹ submit these Comments in response to the Order Seeking Comment and Notice of Hearing entered by the Nebraska Public Service Commission (the "Commission") in this matter on October 7, 2025.²

I. INTRODUCTION

On March 1, 2022, the Commission entered its Order Opening Docket and Seeking Comment in this matter. On April 15, 2022, RIC filed Comments in response to such Order and on May 4, 2022, RIC filed Reply Comments in this docket. On July 26, 2022, RIC's witness, Dan Davis, testified at the public hearing relating to this docket. On July 23, 2024, RIC filed Comments in response to the NUSF-133, P.O. #1 Order and on August 6, 2024, RIC's witness, Dan Davis, testified at the public hearing relating to this docket. RIC continues its participation

¹ Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Great Plains Communications, LLC, Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., K & M Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Sodtown Communications, Inc. and Three River Telco.

² *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, Progression Order No. 3 (Oct. 7, 2025) (the "NUSF-133, P.O. #3 Order").

in this docket through the submission of these Comments in response to the *NUSF-133, P.O. #3 Order*.

In the comments below, RIC will first set forth the topic or question in response to which comments are requested in the *NUSF-133, P.O. #3 Order* followed by RIC's responsive comments. Since there have been several orders issued in this docket related to speed testing, RIC would respectfully request that the Commission restate the speed testing rules so that the parties will only have to refer to one order to determine the applicable current speed testing rules.

II. RIC's RESPONSES TO THE COMMISSION'S QUESTIONS

1. Testing Requirements Framework

Does following the general outline of the FCC's existing performance measures testing framework reduce the burden of speed testing for providers? Would deviating further from the FCC framework, or adopting an entirely different framework, lessen the administrative burdens caused by speed testing for providers? If a different framework is adopted, what requirements could be put in place? Conversely, what testing requirements should be avoided?

Responses: RIC believes that following the Federal Communications Commission ("FCC") performance measures testing framework (the "FCC Framework") reduces the burden of speed testing for providers as it allows providers to conduct speed tests in a consistent manner to comply with both state and federal speed testing requirements. The FCC Framework is an established framework that the FCC has used in its oversight of multiple broadband deployment programs. Requiring different frameworks for testing requirements by state and federal jurisdictions would add administrative confusion and significant additional expense to providers required to submit speed tests to both jurisdictions. As such, RIC believes that deviating further from the FCC Framework, or adopting an entirely different framework, would increase administrative burdens for most, if not all providers that already comply with the FCC Framework for tests required by the FCC. RIC does not believe that a new testing framework

should be put in place by the Commission. Additionally, the FCC Framework meets the statutory requirements of the NUSF ongoing High-Cost Program support speed testing as enumerated in *Neb. Rev. Stat.* § 86-324.02(1). The Commission should continue to use the FCC Framework as the basis for its speed testing requirements for both NUSF ongoing High-Cost Program support and grant funded project support.

NUSF Ongoing High-Cost Program Support

For speed tests conducted pursuant to the requirements of *Neb. Rev. Stat.* § 86-324.02(a), RIC continues to agree with the Commission's stated position in its November 8, 2022 Order: that the FCC Framework should continue to be used as a model for speed testing in Nebraska.³ From the vantage point of the RIC member companies, the current Commission requirements for tests conducted pursuant to *Neb. Rev. Stat.* § 86-324.02(a) are working and adoption of a different testing framework is unwarranted.

Grant-Funded Project Support

As a practical matter, RIC questions why the Commission desires, at this time, to revisit testing requirements regarding grant-funded projects? With the exception of BEAD-funded projects which are not administered by the Commission, available state and federal grant-funded projects have been awarded, and have either been built out or are in the process of being built out. Given the current status of build out of high-cost locations in Nebraska, or commitments for build out, together with the fiscal constraints that seem to apply to both federal and state funding of additional grant-funded projects, the prospect for additional grant funding for broadband build out in Nebraska – and the need for testing protocols for such funding – does not appear to be a present tense concern.

³ *Id.*, Order Setting Speed Test Requirements at p. 2 (Nov. 8, 2022).

The foregoing observations aside, for speed tests conducted pursuant to a past grant-funded project, RIC encourages the Commission to continue to utilize the FCC Framework with certain key modifications that address project areas containing few broadband serviceable locations, and lack of subscribers available in a project area for testing at project completion. Creating testing requirements for grant-funded projects with which all providers are able to comply would eliminate or minimize the need to have “alternative testing” processes, thereby reducing administrative burdens on both providers and the Commission Staff.

During the pendency of this docket and subsequent to the entry of the November 8, 2022 Order, there have been a couple of grant-related speed testing issues that have been brought to the Commission’s attention. The Commission should incorporate the solutions to these identified issues in any newly adopted speed testing protocols. One issue that has come up on multiple occasions is when providers that have built out projects with a small number of locations have been unable to meet minimum location testing thresholds, and another is for providers that are unable to meet the 100/80 speed testing requirement⁴ who bid in the gigabit tier of the reverse auctions.

RIC believes that the grant-funded project speed testing protocols should consist of the following elements: (a) Require the grant recipient to provide the Commission with a list of customers who are served by the same mainline facilities from the central office to randomize locations for the provider to test (to help eliminate project size issues); (b) require the provider to perform a test cycle consistent with the Commission’s rules for NUSF ongoing High-Cost Program support tests (the requirements for test performance remain the same); and (c) address program specific requirements in the event that there are additional requirements from a specific

⁴ *Id.*, Order Revising Speed Test Requirements at pp. 12-13 (Oct. 8, 2024).

grant program (there may be policy or statutory reasons to make modifications to the testing requirements for a specific grant program).

Without any clarity as to the nature and requirements of future broadband grant programs, it is difficult for RIC to make additional recommendations other than as set forth above. As referenced in the *NUSF-133, P.O. #3 Order*, there are three existing programs in which Nebraska law requires recipients of grant program support to submit to speed testing – the Nebraska Broadband Bridge Program (“NBBP”), the Capital Projects Fund (“CPF”), and Precision Agriculture (“Pro-Ag”) connectivity grants. Currently, NBBP is unfunded, and it is unclear when, or if, the NBBP program will receive additional appropriations from the Legislature. CPF was funded through monies the State received from the American Rescue Plan Act, and it is unlikely that the State will receive future funding for CPF. Pro-Ag did not receive any new funding by the Legislature in the 2026-2027 biennial budget. All statutory references to speed testing cited in the *NUSF-133, P.O. #3 Order* relate to programs that most likely can be regarded as “past tense.” If and when future grant funding becomes available, RIC believes that its recommended protocols provide a workable framework while preserving the ability for the Commission to make whatever program-specific modifications that may be needed for a specific future grant program.

2. Frequency and Timing of Tests

Is the frequency of testing currently required an appropriate means to determine if service exists? Is it helpful to set this standard to match with the FCC’s standards? Is there any separate policy rationale for requiring six consecutive hours of testing? Should the limitation on the times during the day when tests are required to be taken be removed? Are there times during the day when cross-talk is typically low enough for more tests to successfully complete? And, as a general matter, the Commission seeks comment on the necessity of latency testing within the context of the Commission’s programs. Is latency testing necessary to determine whether a network has been constructed? Should latency testing be continued, and if so, should latency testing requirements be modified in any way?

Responses: RIC believes the current frequency of testing coupled with the Commission's randomizing process for selecting test locations provide ample evidence that existing broadband service for a designated testing area complies with Commission requirements. RIC recommends retention of the six consecutive hours and seven-day testing window as contained in the FCC Framework currently in place for state testing. Many vendors providing speed testing services to providers designed their systems to comply with the FCC Framework and significant deviation from the FCC Framework would require additional resources and complicate the testing environment between the state and federal jurisdiction.

Cross-talk is a common occurrence in today's Internet-connected environment with customers utilizing streaming services, home security cameras, tablets and computers, and smart appliances to name a few Internet-enabled devices. Given the many devices customers can connect to the Internet, the time of day during which cross-talk might be minimized is overnight hours. As such, RIC suggests that the optimal six-hour testing windows to avoid cross-talk would likely be from midnight to 6:00 a.m. or from 1:00 a.m. to 7:00 a.m.

Regarding latency, RIC believes that the manner in which latency tests are currently conducted makes sense: that there should not be any latency testing requirements for 100% fiber served locations, and for non-fiber served locations, latency testing should continue.

3. Alternative Testing

This alternative testing framework is often utilized for projects in sparsely populated areas or where few active subscribers exist. Is this approach effective? Could any other methods reasonably demonstrate compliance under these circumstances? The Commission seeks comment on whether this requirement should remain in place, or whether limited flexibility for late requests should be allowed, and if so, under what circumstances. The Commission also seeks comment on whether alternative testing should be limited to new deployments or whether it should be made available more broadly. For example, should carriers in sparsely populated areas or those with low subscriber counts be eligible to request alternative testing even for existing networks? Are there other situations where standard testing requirements create undue burdens that could be mitigated through alternative testing methodologies? The

Commission invites input on what criteria or guidelines should be used to determine when broader access to alternative testing is appropriate.

Responses: If the Commission concludes that there is a continuing need for alternative testing, such testing should be limited to new broadband deployment projects and should not be applied to NUSF ongoing expense High-Cost Program support since the alternative testing framework is inconsistent with the NUSF ongoing High-Cost Program support requirements enumerated in Section 86-324.02(a). RIC believes the alternative testing framework is reasonable process to use only in sparsely populated areas and that the alternative testing framework demonstrates and confirms the network was deployed and the speeds for customers in the project area can meet or exceed the required program speeds.

Given the administrative issues that arise when application of the alternative testing framework is necessary due to lack of testable locations, RIC suggests that the Commission not require providers to apply to the Commission for approval of late-filed testing requests and instead provide testing deadline flexibility for up to three additional months for providers seeking alternative testing. Because payments for projects subject to testing are not made until after successful test results are submitted, the provider is incentivized to complete the alternative testing process as soon as possible.

RIC recommends that if continued, alternative testing should be limited to new broadband deployment areas only. A provider's existing network continues to evolve and grow. This evolution and growth will likely result in sufficient test locations available for testing in the subject area.

4. Submission of Test Results

Should providers be allowed to submit evidence of test infrastructure failures or other anomalies that may have impacted results? If so, what level of detail should be required to allow the Commission to evaluate and, where appropriate, adjust results for compliance?

Responses: RIC is not entirely clear regarding the type of deletions, edits, or exclusions the Commission is referencing. For clarification, RIC recognizes that speed test results produced by many, if not all, of the speed test vendors are in native file format that is inconsistent with the Commission's required "NPSC Speed Testing Template." Thus, it may be necessary for a provider to format the results of its speeds tests to comply with the Commission's requirements.

5. Equipment Limitations and Customer Participation

How should the Commission handle situations where customers decline installation of testing equipment, particularly if it prevents the provider from meeting minimum testing requirements? Should substitute test locations be allowed, and if so, what criteria should be used to select them? Are there other approaches to reduce the burden on providers while still ensuring reliable testing results?

Responses: RIC believes that providing secondary or alternative locations to speed test with the random samples of testing locations could alleviate this issue.

6. Purposes of Testing

The Commission further seeks comment as to what the primary purpose of speed testing should be. Should broadband deployment projects be subject to the same testing requirements as providers receiving ongoing high-cost support must meet? Should speed testing requirements be relaxed in circumstances where it is clear that the network has been built and is providing adequate service, even if not all testing requirements can be met? Does the purpose of speed testing differ based on the type of support received?

Responses: RIC believes that regardless of the type of support received, the purpose of speed testing should be to verify that networks supported by public funds are constructed and operated in accordance with the specific requirements of the rules of the applicable broadband deployment program(s) and the NUSF ongoing expense High-Cost Program that support the network. Speed testing is an important part of the Commission's oversight process. RIC suggests that the Commission should strive to create a speed testing process with which every provider can comply, regardless of project size, technology, or other factors.

7. Other Topics

The Commission welcomes comments on other topics relevant to its speed testing framework.

Responses: At this time, RIC has no additional comments on other speed testing-related topics to offer.

III. CONCLUSION

The Nebraska Rural Independent Companies appreciate the opportunity to provide these Comments in response to the *NUSF-133, P.O. #3 Order*. RIC looks forward to further participation in this proceeding.

Dated: November 14, 2025.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14th day of November 2025, an electronic copy and one paper copy of the foregoing pleading were delivered to the Nebraska Public Service Commission at psc.broadband@nebraska.gov and to interested parties via email service.



Paul M. Schudel