

Nebraska Universal Service Advisory Board Meeting

Wednesday, April 29, 2020 – 1:30 PM

The Nebraska Universal Service Advisory Board met April 29, 2020. The meeting was held as a web-based/teleconference meeting in accordance with the Governor's Executive Order No. 20-03.

Gene Hand, Vice Chair of the Advisory Board, called the meeting to order at 1:47 pm. The following Board members were in attendance:

Al Lubeck;
Ben Backus;
Christa Porter;
Dwight Wininger;
Gene Hand;
Gregg Ptacnik;
SuAnn Witt.

Chair of the Advisory Board, David Rosenbaum, was not in attendance.

Others in attendance: Don Price of CTIA; Trent Fellers of Windstream; Rodney Triplett of Prairie Health Ventures.

Present from the Public Service Commission were Cullen Robbins, Shana Knutson, Victor Kapustin, Laurie Casados, Carrie Gans, and Brandy Zierott.

Discussion of and Action on Bylaws

The first order of business was discussion regarding possible amendments to the bylaws. The bylaws describe that board members serve three-year terms, and the appointment must not span more than two consecutive terms. The bylaws can be amended by the board, and the statute does not restrict the number of terms for the board. The statute does state, however, that the Commission must appoint or approve of the board members. Discussion continued regarding amending the bylaws Section II, Subsection B as follows: "1. Members shall be appointed for a three-year term and may be reappointed for subsequent terms. 2. [Delete]."

Christa Porter made a motion to amend the by-laws to allow members to serve three-year terms, with reappointment permitted, seconded by Ben Backus. The motion passed with board members Porter, Hand, Backus, Ptacnik and Lubeck voting in favor, and Wininger and Witt present not voting.

Terms of Board Members and Dates of Re-appointments

The next order of business was discussion regarding dates of appointment and expirations. It was previously determined by the board that the term of a member would expire in January. However, with the board meetings being held in April of each year, there was discussion on whether the term expiration may be better aligned with the schedule of the board. At this point, the board will continue the current practice. Members were asked to bring proposed language to clarifying the term expiration within the by-laws for consideration at the next board meeting.

Gene Hand announced that terms were expiring in January 2021 for Gene Hand, Al Lubeck, Gregg Ptacnik, and Ben Backus. Members who wish to be re-appointed for another term should submit a letter to the Commission expressing their desire to renew their term.

Cullen Robbins stated that no applications for the open Rural Health Care seat had been received, but a party has contacted him to express interest.

Vote on Chair and Vice Chair positions

The next order of business was the nomination of Chair and Vice Chair.

Dwight Winger made a motion to nominate Gene Hand as Chair, seconded by SuAnn Witt. Upon a roll call vote of all Board members present, the motion carried unanimously with board members Backus, Hand, Lubeck, Porter, Ptacnik, Winger and Witt voting in favor.

SuAnn Witt made a motion to nominate Christa Porter as Vice Chair, seconded by Greg Ptacnik. Upon a roll call vote of all Board members present, the motion carried unanimously with board members Backus, Hand, Lubeck, Porter, Ptacnik, Winger and Witt voting in favor.

Approval of Minutes from April 30, 2018

Gene Hand discussed typographical corrections to the minutes. A motion was made by Greg Ptacnik and seconded by Christa Porter to approve the minutes from the April 29, 2019 Advisory Board Meeting, as revised. Upon a roll call vote of all Board members present, board members Backus, Hand, Lubeck, Porter, Ptacnik, Winger and Witt vote in favor. The minutes were approved with corrections and the motion carried.

Schools and Libraries Activities Report

Christa Porter updated the board on E-rate activities. Ms. Porter shared that the E-rate filing window for Form 471 was extended to April 29, 2020, in an effort to minimize potential disruptions due to impacts of COVID-19. USAC has not yet released any funding commitment decisions for funding year 2020. Ms. Porter explained that from 2015 to current, E-rate modernization has changed the levels of participation. The most significant change was the elimination of e-rate support for voice services, which has reduced participation from 100+ applicants per year to 50-60 applicants per year.

In 2019, there were 62 libraries in Nebraska that applied for E-rate, requesting around \$206,000 in funding, with an average e-rate discount rate of 72%. In 2020, there were 50 applicants, requesting \$172,800. The funding requests include some Category 2 internal connections and basic maintenance support, but the majority of the funding requests are for Category 1 support. With the NUSF-117 order, and the possibility of additional funding available, they expect to see an increased interest in special construction projects in coming years. Libraries are more often becoming hubs for kids to access schoolwork, or as facilitators to provide connections to kids to learn from home. At Department of Economic Development, they are trying to leverage E-rate funding to help in that process.

The Nebraska Library Commission has additional staff in place to pro-actively assist libraries with assessment of their current internal connections for adequacy, and to suggest recommended upgrades. It was noted that additional focus could be placed on internal connections and special construction, as it appears many libraries are unaware that e-rate funding may be available for those expenses.

Nebraska Rural Broadband Task Force

Cullen Robbins reported on the Rural Broadband Task Force activities. The Task Force was created after LB 994 was passed into law in 2018. The Task Force was formed to examine several issues related to rural broadband, including the use of the Nebraska Universal Service Fund to deploy broadband to rural areas.

The Task Force met several times in 2019, and created several subcommittees, such as: NUSF Subcommittee who recommended to continue the current efforts of the PSC, to increase accountability for NUSF by implementing a grant-like system, and to investigate the development of reverse auction for broadband buildout; Broadband Data Subcommittee to review the FCC mapping process and investigate alternative methods of collecting data; Broadband Technologies Subcommittee to investigate using alternative technologies to bring Broadband to rural areas, Public-Private Partnerships Subcommittee to consider regional planning and potential opportunities for cooperation between local and regional entities, and Homework Gap/Leveraging Funding Subcommittee to identify strategies to address the homework gap and investigate leveraging funding, such as e-rate.

The final report of the Rural Broadband Task Force was provided to the Legislature in October 2019. LB 992 was introduced in the legislature on January 14, 2020, a hearing was held on February 3, 2020, and the bill prioritized by the Transportation and Telecommunications Committee. The bill seeks to implement elements of the Rural Broadband Task Force report, such as: creation of the State Broadband Coordinator position; to provide PSC with authority to create the special construction matching program; changes to dark fiber leasing which would eliminate the NIEF and move the funding to NUSF. The 2020 legislative session was suspended effective March 16, 2020 until further notice, due to public safety concerns with coronavirus pandemic.

The Rural Broadband Task Force will continue to meet, and is required to report to the legislature every two years. Mr. Robbins will share a link to the Rural Broadband Taskforce website, along with the final report, with the board members.

NPSC NUSF Program Reports

- **NUSF-100/NUSF-111 – Updates on NUSF Contribution Methodology:**

The NUSF-100/NUSF-111 dockets outline NUSF contribution methodology. In April 2019, Nebraska moved to a surcharge of \$1.75 per residential connection, and continued at 6.95% surcharge on business revenue. At the time of the change in methodology, the projected fund size was between \$45-50 million per year. Through March 2020, remittances to the fund have totaled approximately \$47.5 million for the year. The PSC continues to evaluate moving business services to a per connection surcharge. Part of the approach will include consideration for long distance and toll revenues.

- **Tele-Health Report:**

Significant changes to the prior programs have occurred requiring modernization of NUSF-37. In February 2020, NUSF-37 docket was opened for comments due April 7, 2020. However, the PSC received only one set of comments, possibly due to timing with the coronavirus pandemic. The

deadline for comments has been extended to June 9, 2020.

- **Nebraska Telephone Assistance Program (NTAP)/Lifeline Update:**

USAC has moved all states to National Verifier (NV). Nebraska transitioned to NV in October 2019. Prior to the transition to NV, the Nebraska PSC would verify eligibility of participants. With the October 2019 launch, USAC now determines eligibility for participants, and the PSC has adjusted its process to accommodate the NV requirements.

Participation in NTAP/Lifeline has continued to decline. Currently, there are roughly 3,100 NTAP recipients per month in Nebraska, down from approximately 4,100 per month in 2019, and approximately 5,100 per month in 2018. It is estimated that 1/3 of those that qualify for the program are participating (wireless or wireline). One potential factor for the reduction in participation is that Cox relinquished their ETC designation in April 2019, and therefore they no longer provide the Lifeline discount to customers. It was noted that the reduction in participation is consistent on a national basis.

- **NUSF-92 Wireless Broadband Grants:**

Mr. Robbins noted that in 2019, the Commission opened a docket to look at modifying criteria for evaluating applications. The Commission entered NUSF-92, PO #9 Order, on November 5, 2019, modifying program criteria and opening the application window. The budget for the 2019 funding year was set at \$5.2 million for wireless broadband infrastructure build-out. Applications were received from two carriers, Viaero and US Cellular for multiple tower locations. The docket is still open and being reviewed.

The 2020 grant cycle is not yet opened, and the budget for 2020 has not yet been determined.

- **NUSF-92 Broadband Adoption Grants:**

Mr. Robbins reported on activities within the Broadband Adoption Grants. In 2016, Allo had applied for and was awarded a grant for a pilot project supporting low income participants in partnership with Lincoln Public Schools. There were some challenges with the program, and they were unable to move forward. Allo submitted an amended application which was approved on February 19, 2020, under NUSF-92.49. Allo is working to implement the amended application.

The Commission recently approved \$1 million in NUSF-92 Progression Order No. 10 for reimbursement of broadband adoption projects for free or reduced broadband services provided to low-income consumers in an effort to facilitate online learning during the coronavirus pandemic. The support will be available for services provided from March 15 to May 31, 2020.

- **NUSF-99 Summary of Broadband Grant Requests by Price Cap Carriers:**

Mr. Robbins discussed the High Cost program for Price Cap carriers and described adjustments to the program that are intended to incentivize broadband buildout. In 2016, the Commission transitioned support for price cap carriers to a reimbursement process for broadband deployment projects. Carriers are required to submit applications requesting support for specific projects. The NUSF-99 support model provides for 80% of the support allocated to a carrier to be for approved broadband deployment projects. There have been 130+ applications received for NUSF-99

funding. The Commission is looking at modifications to the NUSF-99 process such as whether a timeline for use of support should be implemented, if the minimum 25/3 speed requirement is appropriate, and if there should be consideration for alternative technologies, such as fixed wireless.

An update was provided on the CenturyLink Valentine project which is currently underway. This project is one of the larger NUSF-99 projects. It is being completed in phases including south, east, and north Valentine, as well as a small portion west of Valentine. Upon completion, it will bring FTTH to rural areas of the Valentine exchange. The engineering portion of the project is complete. They are currently working with contractor for boring, and have started construction, flagging highways, and have been working with the Department of Roads to ensure they are going to the right locations. There are some areas within the exchange that have been flooded since May 2019, which has impacted construction in those areas.

- **NUSF-108 Adjustment to the High Cost Mechanism and Reporting Requirements:**

Cullen Robbins discussed the support methodology for NUSF-108 rate of return carriers. The intention of the support model was to make the process more incentive based, particularly when carriers still had a significant amount of broadband deployment to complete within their service area. The state support is reviewed on a census block level, and how/where NUSF support is provided is based on three questions: (1) Does an ILEC already provide a minimum 25/3 service to the census block? (2) Is the census block receiving federal support? (3) Has the state already provided support within the census block?

The PSC uses an EARN form to track earnings for rate of return carriers based on a prescribed rate of return. The commission is currently looking at changes to the EARN form to more closely align with federal categories and to improve the EARN form process.

- **NUSF-117 – New Fiber E-rate Eligible Entities:**

Mr. Robbins noted that the Commission opened docket NUSF-117 in December 2019 to consider implementing a program within NUSF to incentivize new fiber construction for E-rate eligible entities, based on the Rural Broadband taskforce recommendation and Legislative session. The Federal Communications Commission (FCC) E-rate program discounts cost to schools/libraries, of up to 90%. The FCC has adopted rules to provide up to an additional 10% Category 1 funding to match appropriated state funding for fiber “special construction” charges on a dollar to dollar basis, not to exceed 100% of costs. The Commission held a hearing on April 21, 2020. The NUSF-117 proposal allocates \$1 million spanning over 4 years (2021-2024), and includes eligible schools and libraries in Nebraska.

- **Rule and Reg. 202 – Reverse Auction, Wireless Registry:**

Mr. Robbins provided an update regarding Rule and Regulations Docket, R&R 202 which was opened by the Commission in March 2019, to implement provisions of LB directing the Commission to promulgate rules for state run reverse auction and wireless registry. The Commission held a workshop on August 6, 2019, and released proposed rules in October 2019, seeking comments. The rules proposed by PSC staff are intended to create a very broad framework. The reverse auction rules would allow for redirection of NUSF support when an ETC is not

meeting service obligations. A hearing is scheduled to be held on May 19, 2020, rescheduled from March 24, 2020.

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

Discussion was held on the Advisory Board's recommendation to the Commission for the surcharge rate for the 2020/2021 fiscal year. While the PSC budget is completed on a calendar year basis, the surcharge is on fiscal year basis. The advisory board recommendation for surcharge rate would be for fiscal year 2020/2021.

Cullen Robbins reviewed the NUSF budget for 2020. The current level of the NUSF fund was approximately \$82 million, of which approximately \$50 million had been encumbered for future allocations. Discussion was held related to budgeted amounts for programs not yet implemented or undergoing changes, such as Lifeline/NTAP, Telehealth, and NUSF-117. Following the new hybrid connections-based surcharge methodology implemented April 1, 2019, business revenues continued to be assessed at 6.95%, and residential lines moved to a \$1.75 per connection surcharge. Remittances to the fund from April 2019 through March 2020 were approximately \$47.1 million, or an approximate average of \$3.95 million per month. The commission is still investigating possible change to business surcharge to connections based.

There was discussion about potential impacts to E-rate participants if surcharge levels are changed. E-rate contracts are often for 4+ years. However, if there is a change in business remittance levels, it could impact the fees libraries/schools are required to pay.

A motion was made by Greg Ptacnik, seconded by Al Lubeck to leave the surcharges at the current level and draft a letter to the Commission, stating the Board's support of the Commission's current surcharge rate. Upon a roll call vote of all Board members present, the motion carried unanimously with board members Backus, Hand, Lubeck, Porter, Ptacnik, Wininger and Witt voting in favor.

Discussion regarding changing the frequency of NUSF Advisory Board meetings. Typically, the board meets once annually, in April of each year. However, additional meetings can be held to discuss important matters as they arise. Mr. Robbins advised that he will provide updates to the board as the PSC begins going through reviewing the surcharge revision process, and once a recommendation is made. The board can decide if an additional meeting is needed at that point. Otherwise, the board will plan to hold the next meeting in April 2021.

Public Comments

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

Adjourn

Upon agreement of all Board members the meeting adjourned at 3:14 p.m.