

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public
Service Commission, to Establish
Reverse Auction Procedures and
Requirements

Application No. NUSF-131

ORDER OPENING DOCKET, SEEKING
COMMENT AND SETTING HEARING

Entered: June 29, 2021

**COMMENTS OF QWEST CORPORATION d/b/a/ CENTURYLINK QC AND
UNITED TELEPHONE COMPANY OF THE WEST d/b/a CENTURYLINK**

Pursuant to Commission Order dated June 29, 2021 (“Opening Order”) in the above-referenced docket, Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink (collectively, “CenturyLink”) hereby respectfully provide the following comments on the Commission’s proposal to establish reverse auction procedures and requirements.

1. As noted in the Commission’s Opening Order, the Governor approved the Commission’s Reverse Auction Rules and Regulations on May 7, 2021. These Reverse Auction rules are intertwined with the Commission’s updated framework for awarding NUSF broadband grant funding for price cap carriers developed late last year (NUSF-99, Progression Order No. 2, Order Adopting Findings and Conclusions, Entered November 4, 2020). When taken together, the Reverse Auction rules and updated NUSF-99 framework will advance the robust deployment of critical broadband services to rural areas of Nebraska that face significant economic challenges due to population density and other factors. CenturyLink commends the Commission and its Staff for proposing a framework that is consistent with the legislative intent behind the reverse auctions program. CenturyLink does not offer comment on every proposal or every question posed by the Commission and hereby offers the following comments on a narrow list of issues.

Term of Support

2. The Commission proposes the following: (1) a two-year buildout requirement, (2) support provided in equal increments over the two-year period, (3) actual invoices showing costs incurred, (4) and all cost information submitted by the end of year three. CenturyLink suggests these obligations are generally consistent with existing support initiatives, including NUSF-99 and Nebraska Broadband Bridge Act grants, and supports the terms outlined by the Commission in its proposal.

Budget

3. The Commission seeks comment on its proposed budget which will be determined for each auction area once the Commission knows how much support allocated to price cap carriers goes unused. CenturyLink supports the Commission's plan to release the amounts and reserve prices for each census block that are wholly unserved. Again, this is consistent with the rules for price cap carriers and represents the best way in ensuring all areas receive broadband services.

Service Offerings and Reasonable Comparability

4. The Commission proposes that auction support recipients would have the flexibility to offer a variety of broadband service offerings as long as they offer at least one standalone voice plan and one service plan that provides broadband at the relevant performance tier and latency requirements at rates that are reasonably comparable to rates offered in urban areas. CenturyLink agrees not only with the Commission's flexibility objective but also the requirement to at least offer standalone voice service to every household within the auction census blocks. Any carrier receiving NUSF support must be an eligible telecommunications carrier (ETC). ETCs have a duty "to offer adequate voice service throughout their exchange and

to fulfill all reasonable requests for service.”¹ Further, voice service offered by ETCs “must be capable of meeting all ETC requirements, including but not limited to, access to emergency services and battery backup.”²

5. The Commission also sought comment on whether auction support recipients should be required to provide annually the Commission with copies of advertisements and marketing materials to ensure that they are promoting the availability of its services throughout its service area and the prices at which the services are offered. Again, this is an obligation of all ETCs and any auction winner should comply with all ETC certification requirements including advertising in general media. CenturyLink is not proposing any separate or unique obligations but strongly suggests that the Commission hold all ETCs to the same standards.

Areas Eligible for Auction Support

6. In its Opening Order, the Commission reiterated that “As part of the NUSF-99 buildout requirements, carriers were required to serve every eligible census block in an exchange.”³ The Commission then noted that in many cases, “the eligible blocks are not contiguous, and as such might be less attractive to bid on as a unit.” Accordingly, the Commission seeks comment on whether auction areas in bidding units should be smaller than the exchange level.

7. CenturyLink notes that these arguments were made in the NUSF-99 proceeding and the Commission has already established its policy. Specifically, CenturyLink argued that the Commission should modify its NUSF-99 rules by “allowing partial exchange buildout by the

¹ NUSF-99, Progressive Order No. 2, Order Adopting Findings and Conclusions, Entered November 4, 2020, at p. 37.

² *Id.* at p. 39.

³ Opening Order at p.7

price cap carrier or auction winner to accommodate for ultra-high cost areas.”⁴ However, the PSC rejected this approach:

Some commenters expressed concern with the requirement to build to all eligible locations within an exchange. Instead, some commenters supported using a standard with a buildout requirement of 90 of 95 percent of the locations in a support area. We decline to modify our proposal for a few reasons. First, Neb. Rev. Stat. §§ 86-317 and 86-323 clearly establish the legislative policy position that our funding mechanism, as a supplement to the federal mechanism, should ensure all Nebraskans, without regard to their location have comparable accessibility to telecommunications and information services to those offered in urban areas. We do not think it would be appropriate for the Commission to rewrite this declaration of policy by adopting a different standard for broadband buildout. Second, reaching all high-cost locations within a support area is a realistic requirement given that support made available is based upon a cost model which includes all locations. Invoiced costs of broadband deployment are reimbursed by the Commission as long as they are based upon the costs allocated to the carrier and consistent with the model. We recognize that some locations might be extremely costly to serve and that in some circumstances a carrier may not want to expend the resources to maintain and upgrade service to a consumer in a remote location. However, those areas have most likely been neglected and these locations may be where consumers rely most heavily on their wireline voice and broadband connection for public safety reasons. Accordingly, we adopt the proposal to require price cap carriers to reach every household within an approved project area regardless of topography, vegetation, or distance.⁵

8. The Commission now suggests the very proposal it previously rejected when advanced by CenturyLink in the NUSF-99 docket. If Price Cap carriers could commit to areas smaller than the entire exchange, sub-exchange areas very well could have been accepted by the carrier. And because Price Cap carriers are prohibited from participating in the reverse auction proceedings for their respective exchanges, the Commission’s proposal would allow auction bidders to target lower cost areas while leaving the higher cost areas to the Price Cap carrier. Such disparate treatment places Price Cap carriers at a competitive disadvantage. Further, it will

⁴ NUSF-99, Progression Order 2, Lumen comments at ¶ 4 (July 30, 2020).

⁵ NUSF-99, Progression Order 2, Opinion and Findings at pp. 36-37.

allow auction bidders to cherry-pick desirable areas and will serve to further isolate those areas that have been left behind.

Reserve Prices

9. CenturyLink suggests that the maximum support, or reserve price, set for an auction area be the same dollar amount offered to the respective price cap carrier for the same exchange. Setting the reserve price higher for the reverse auction process than what was offered the Price Cap carrier does, in fact, create an unfair support advantage, the very result the Commission is trying to avoid. On the other hand, setting the reserve price lower than what was offered to the price cap carrier may limit bidder participation which is also what the Commission is attempting to avoid.

Conclusion

CenturyLink again commends the Commission and its Staff for their comprehensive proposal and thanks the Commission for the opportunity to provide comments in this docket.

Respectfully submitted,

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