

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public)	Application NUSF-131
Service Commission, on its own motion,)	
to establish reverse auction procedures)	
requirements.)	

COMMENTS OF COX NEBRASKA TELCOM, LLC

Cox Nebraska Telcom, LLC (“Cox”) respectfully submits these comments in response to the Nebraska Public Service Commission’s (“Commission”) Order entered in the above-captioned matter on June 29, 2021. Cox supports the Commission’s continued efforts to implement a reverse auction program in Nebraska and applauds the Commission for quickly moving forward opening this docket following the passage of Legislative Bill 338 (2021).

Cox files these comments asking the reverse auction program be structured in a technologically neutral manner so that an equal opportunity exists for all providers to participate. In addition, Cox files these comments to provide feedback to certain questions that were posed in the Commission’s Order. Cox was a participant in the FCC’s Rural Digital Opportunity Fund (“RDOF”) and was awarded funding in several states, including Nebraska. As such, Cox files these comments based on its experience as a bidder in the RDOF program and as a long-time service provider.

I. Simplify the Process

The Commission should take steps to encourage bidders to participate in the reverse auction by streamlining the application and the overall process as much as possible. The Commission should take advantage of the fact that many existing providers are already offering broadband service in Nebraska and have been doing so for quite some time. Cox encourages the

Commission to rely on information it may have received in the last 3 years through ETC applications or other formal Commission filings, such as annual reports to validate a bidder's fitness to participate in the reverse auction.

II. Decline to Adopt Additional, Unnecessary Requirements

To maximize the number of potential bidders, the Commission should refrain from imposing burdensome requirement on auction participants. For example, the Commission should avoid instituting take-rate or subscribership quotas. Providers can control the broadband facilities they deploy, but they cannot control consumers' purchases of those services. The Commission should not make it difficult for providers to participate in the reverse auction by holding them responsible for situations outside their control, particularly when subscribership requirements are not imposed on current NUSF recipients.

Similarly, the Commission should not require service quality metrics, annual advertisements, subscribership data or set engineering standards unless such obligations are in statute, rule or have been imposed on the historical NUSF recipients via previous orders. It would be inherently unfair and perhaps beyond the Commission's jurisdiction regarding broadband delivery to impose requirements on the reverse auction winners beyond what is required of the current NUSF recipients. Winning bidders should be required to follow the Commission's rules, regulations, orders and statutes. However, they should not face a more stringent, complicated system than what is asked of the NUSF recipient companies when the reverse auction originates from that program.

Finally, it is reasonable to provide bidders a short window of time to modify applications that contain a minor flaw or defect. Cox urges this approach so the Commission has as many bidders participating in the auction as possible. Rejecting an applicant prevents broadband from

being deployed by a potentially lower-priced, superior service provider. Further, as this is the inaugural launch of the reverse auction, it is foreseeable that errors will be made.

III. Size of the bidding area.

An issue of critical importance is the size of the bidding area. In both the Connect America Fund and the RDOF, the FCC adopted census block groups as the minimum-sized geographic area for bidding, and Cox encourages the Commission to utilize census block groups as well. Using census block groups, or even a smaller geographic unit of a partial census block provides greater flexibility than large geographic areas, particularly for bidders like Cox that could potentially expand its network or construct smaller networks near its existing footprint.

If the Commission adopts an overly large bidding unit, such as an entire exchange, many providers, including Cox, may be unable to participate. An exchange is the historical geographic boundary of the incumbent telephone company. It is not necessarily used by other providers, and thus is not competitively neutral. Allowing census block groups, or partial census blocks as the smallest bidding unit, rather than full exchanges will enable robust technology-neutral participation from all possible providers.

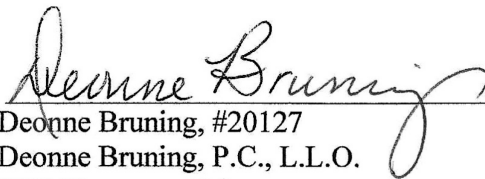
IV. Conclusion

In closing, Cox hopes the Commission continues to review and follow the FCC's RDOF auction procedures. To that end, Cox suggests the Commission take a periodic review of its reverse auction rules found in Title 291, Chapter 16 and the conclusions reached in this docket and if necessary, open a docket should there be lessons learned at the federal level that would be useful for Nebraska's reverse auction. Also, Cox notes while the present docket is understandably focused on timely implementing the reverse auction, LB 338 also allows the

Commission to redirect funds via 'rural-based plans.' Cox looks forward to providing comments and engaging in the formulation of that program in the future. Cox thanks the Commission for the opportunity to provide comments in this docket and appreciates the chance to offer reply comments if necessary.

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Certificate of Service

The undersigned hereby certifies on this 29th day of July 2021, one original and one electronic copy of the Comments of Cox Nebraska Telcom, LLC in Application NUSF-131 were sent via USPS Priority Mail to the Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, Lincoln NE 68502 and a copy was e-mailed to Cullen Robbins at cullen.robbsins@nebraska.gov and Brandy Zierott at brandy.zierott@nebraska.gov.



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