

BEFORE THE NEBRASKA PUBLIC SERVICE COMISSION

In the Matter of the Nebraska ) Application No. NUSF-131  
Public Service Commission, on )  
its own motion, to establish )  
reverse auction procedures and )  
requirements

**COMMENTS OF SKYWAVE WIRELESS, INC**

Skywave Wireless, Inc submits these Comments in the above-captioned docket pursuant to the Orders entered by the Commission on June 29, 2021.

*Pre-Auction Vetting Process*

A pre-auction vetting process similar to the FCC RDOF short-form application should be used. Criteria should include time in business selling broadband services and voice services. Audited financial statements should not be required from providers demonstrating sufficient evidence of a certain term of operations in the industry in the short form application.

*Term of Support*

If the term of support is limited to two-years, there should be some regulation on the size of the project. This could be done by number of locations. This will prevent providers from submitting projects that cover large areas the will be difficult to regulate and monitor for compliance with program guidelines.

Requiring invoice copies will impose an unnecessary burden on companies. Instead a provision allowing for invoice copies only upon request would be more appropriate. This could also be included in non-compliance measures.

### *Budget*

The Commission should review standards and criteria between every auction, especially after the first auction.

Bidding areas should be grouped in units that would be an entire project. This would allow for the two-year support term to be applied to appropriate size projects and reduce the administrative time needed to combine many small units to create a project. This would not have been feasible for the FCC to do in CAF II/RDOF but would potentially be possible at a state level.

### *Deployment Obligations*

RDOF/CAFII has expended an enormous amount of money supporting lower performance tier projects that will only provide sufficient services for a comparatively limited time. Gigabit, fiber-delivered services should be preferred over any other tier and delivery technology. Companies may submit proposals to provide gigabit services with wireless technologies, these technologies have less longevity and do not cover geography completely. Winners in RDOF have been allowed to consider a location served even if trees prevent that location from getting service.

Speed sampling locations should be chosen by regulators. RDOF participants may be providing satisfactory test results but cherry-pick locations to be tested.

The above changes need to be considered to prevent participants from taking advantage of the funds and using loopholes in the program to not actually provide services to all locations in bid areas.

### *Application Process*

Audited financial statements should not be required. The requirement substantially disadvantages small companies from participating in the program. Requiring non-audited financial statements and tax returns would provide enough financial insight needed to vet the company's ability to complete the project. The amount of support is going to be much less than RDOF/CAF II and does not justify the need for audited financial statements. Audited financials would potentially be beneficial to request only from companies with less than two years of operational experience.

Utilizing funds to purchase existing facilities should not be allowed. Allowing this would only benefit a company's ability to use government funds for inorganic growth.

Regulation should be considered to give Nebraska native companies a competitive bidding edge over out-of-state companies. RDOF/CAF II has shown how unexpected bidders from across the nation may apply for funds from a program such as this and use loopholes to get paid and not deliver. Companies native to Nebraska have a higher likelihood of adhering to regulations as intended and planning and executing projects desired by the Commission and residents of Nebraska. In addition to the above benefit, Nebraska's economy would be more likely to benefit from awarding program funds to native companies.

### *Authorization and Release of Auction Support*

If a long form applicant does not meet criteria, the support should be awarded to the next bidder at the previous bidder's support amount. Timelines would need to be adjusted to account for time passing during application reviews.

### *Non-Compliance Measures*

Non-compliance measures should be adopted that allow the Commission to issue waivers on a case-by-case basis. RDOF/CAF II had problems that led to many companies being awarded very small support amounts. These companies were to be considered non-compliant if they did not still file a long form application and complete the process. Non-compliance needs to be treated seriously, but on a case-by-case basis with rationale and rules that allow for that.

Sanctions for non-compliance should be monetary and significant. Revocation of designations or licenses is overkill and too permanent of a penalty.

Dated July 30, 2021

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ryan Kuester", written in a cursive style.

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