

**BEFORE THE  
NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of )  
 )  
Establishing reverse auction procedures ) Application No. NUSF-131  
and requirements. )

**COMMENTS OF USTELECOM – THE BROADBAND ASSOCIATION**

USTelecom — The Broadband Association (USTelecom)<sup>1</sup> submits these comments in response to the Nebraska Public Service Commission’s Order Opening Docket and Seeking Comment on establishing reverse auction procedures and requirements. USTelecom members have a long track record of delivering resilient, reliable, and secure 21st century broadband internet service in communities across rural America and share the Commission’s goal of expanding rural connectivity in Nebraska. Based on their experiences, USTelecom recommends the Commission should: 1) apply lessons learned from the Federal Communication Commission (FCC)’s Rural Deployment Opportunity Fund (RDOF) to the pre-auction vetting process, 2) provide flexibility to extend the timeframe for support if permitting and supply chain issues arise, 3) regularly update reverse auction standards and eligibility to reflect evolving universal service objectives, 4) follow the FCC’s lead on baseline performance and latency requirements, and 5) adopt FCC benchmark rates when comparing proposed offerings against other market-based plans and rates.

USTelecom appreciates the opportunity to offer its perspective on how to best ensure funding from the reverse auction is used efficiently and effectively to connect as many Nebraska consumers as possible to high quality broadband service.

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<sup>1</sup> USTelecom is the premier trade association representing service providers and suppliers for the communications industry. USTelecom members provide a full array of services, including broadband, voice, data, and video over wireline and wireless networks. Its diverse membership ranges from international publicly traded corporations to local and regional companies and cooperatives, serving consumers and businesses in every corner of the country.

**I. THE COMMISSION SHOULD APPLY LESSONS LEARNED FROM THE FCC'S RDOF AUCTION TO THE PRE-AUCTION VETTING PROCESS**

The Commission should consider lessons learned from the FCC's RDOF auction when determining criteria for vetting potential bidders to ensure all auction participants are able to meet minimum requirements for deployment areas and speeds. Establishing a thorough pre-auction vetting process is more important and effective than enforcing post-auction penalties as a means of preventing the state from investing in providers that will not be able to deliver the services and speeds promised during the bidding process. The FCC recently revealed that approximately 50 auction winners defaulted without even attempting to meet their obligations. This left more than 85,000 locations that were set to receive broadband but instead will not be served through the program, destined to wait until the next broadband funding opportunity comes along.

While holding bidders to more stringent pre-qualification processes would not have prevented all defaults in the RDOF example, it seems likely that some basic criteria to demonstrate experience and wherewithal in the broadband industry would have prevented some defaults. To ensure the providers chosen can deliver on their promises, the Commission should require all bidders to have a minimum of two years demonstrated history of service at the speeds for which they are bidding and with the technology they plan to use to complete their deployment. Bidders also should provide subscribership information to demonstrate their ability to run a successful broadband operation and serve their customers. Also, a bidder should not be able to bid for more than its current revenues. The Nebraska USF represents a commitment of public funding for infrastructure; this valuable resource should not be used as a venture capital fund for broadband providers seeking to grow exponentially.

**II. THE COMMISSION SHOULD PROVIDE FLEXIBILITY TO EXTEND THE TIMEFRAME FOR SUPPORT IF PERMITTING AND SUPPLY CHAIN ISSUES ARISE**

The pandemic's impact has cemented the need to ensure all in America have access to broadband service at their location. To this end, there is a substantial amount of federal funding for broadband available today via the American Rescue Plan and potentially more to come with a federal infrastructure package—in addition to the recently completed RDOF auction and other existing federal programs. This is great news for broadband deployment, but it may strain deployment completion timeframes in the near term, requiring flexibility. In any case, a two-year timeframe for support is likely insufficient for any project at scale. Most projects require at least a year for planning and obtaining the necessary permits to begin construction. Then, deployment seasons may be limited by winter weather, so the actual timeframe for physically building infrastructure may be truncated. Also, depending upon timing, those seeking to deploy broadband may experience difficulties up and down the supply chain, including sourcing qualified labor, physical materials like fiber, and semiconductors, which are currently in short supply nationwide across all industries. Given the uncertainty in the market, if the Commission chooses to adopt an abbreviated two-year cycle, it must also build in appropriate mechanisms for flexibility given the predictable difficulties that may arise completing the project.

**III. THE COMMISSION SHOULD REGULARLY UPDATE REVERSE AUCTION STANDARDS AND ELIGIBILITY TO REFLECT EVOLVING UNIVERSAL SERVICE OBJECTIVES**

The Commission should ensure that as it evolves its universal service standards, it also updates the associated obligations and assigns carrier of last resort responsibility to the winning bidder. So long as Nebraska wishes to ensure stand-alone voice service is available to its residents, it should require the broadband support winner to provide stand-alone voice service across their

territory and assume carrier of last resort obligations. If a carrier can provide 25/3 Mbps service but not voice service, it would require a separate supported carrier to provide the required voice service, which is completely inefficient given the evolution of modern communications needs. Practically, it would be financially infeasible to continue to require an ILEC to assume COLR responsibilities when the government is directly subsidizing a superior broadband network in its service territory. Accordingly, eligible census blocks should include areas where no provider is offering both voice service and 25/3 Mbps terrestrial fixed broadband service and the winning bidder should be responsible for voice and broadband.

When seeking to prioritize broadband funding, it is essential to focus first on the unserved. Prioritizing census blocks that are wholly unserved with broadband at speeds of 25/3 Mbps will ensure that consumers that lack all broadband today are not left behind while money flows to more economically desirable areas that already have some level of service above 25/3 Mbps. As coordination will be key to determine which areas are truly unserved, the state should consult with relevant federal agencies that have up to date information on where existing service is being provided and which areas are in the process of receiving funding for the deployment of high-speed networks in presently unserved areas. On June 25, the FCC, the Department of Agriculture and the National Telecommunications and Information Administration (NTIA) entered into an interagency agreement specifically to ensure that these agencies coordinate in order to avoid duplication of efforts.<sup>2</sup> The state should coordinate with these agencies to determine which areas to prioritize for the auction. While it is important that providers can deliver results for their customers, the Commission should not use speed tests as evidence that a carrier can provide service. These tests

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<sup>2</sup>See Interagency Agreement Between the Federal Communications Commission, U.S. Department Of Agriculture, and the National Telecommunications And Information Administration Of The U.S. Department Of Commerce, (June 25, 2021), <https://docs.fcc.gov/public/attachments/DOC-373591A1.pdf>

have many known issues, including issues outside the providers' control that can skew results including outdated consumer devices, proximity to the router, and congestion on networks external to the service provider, yielding inaccurate results.

To the extent that the Commission plans to conduct additional reverse auctions, it is important that the Commission review and update its standards before every reverse auction in order to incorporate lessons learned and avoid problems that may have hampered previous federal or state auctions.

#### **IV. THE COMMISSION SHOULD ESTABLISH BASELINE PERFORMANCE AT 100/20 MBPS AND FOLLOW THE FCC'S LEAD ON LATENCY REQUIREMENTS**

Recognizing the forward-looking nature of broadband use, the Commission should eliminate the 25/3 Mbps performance tier in favor of a 100/20 Mbps speed with 2 TB of monthly usage. While it is advisable to provide a preference for faster speeds, broadband is not a one-size-fits all technology and there may be economic and technical limitations on a providers' ability to deploy gigabit technologies everywhere. A minimum tier of one Gigabit is too stringent, though, expressing a preference for gigabit service should not present any problems in risking a loss of future federal auctioned support. The state should make sure to combine use of American Rescue Plan Act funding, capital improvement funds, state USF and determine if additional infrastructure funds are available before committing to the auction in order to maximize its utility. This would avoid losing future federal funding; however, the state's focus should address the need to deliver broadband as quickly as possible to Nebraska residents. Regarding minimum latency requirements, the Commission should follow the FCC's lead and adopt the latency requirements and weights used in its RDOF auction.

**V. THE COMMISSION SHOULD ADOPT FCC BENCHMARK RATES WHEN COMPARING PROPOSED OFFERINGS AGAINST OTHER MARKET-BASED PLANS AND RATES**

The Commission should give auction participants the flexibility to offer a variety of service offerings as long they offer at least one standalone voice plan and one broadband service plan at the required performance tier and latency requirements at rates that are reasonably comparable to those offered in urban areas. The Commission also should adopt the FCC’s benchmark rates for simplicity and efficiency when comparing proposed offerings against other market-based plans and rates. Providers have every incentive to maximize their customer base, so it is not necessary to mandate adoption rates or marketing materials. To the extent the state wants to encourage adoption, it should consider launching a broadband affordability benefit and engaging in comprehensive digital literacy training.

**VI. CONCLUSION**

USTelecom appreciates the opportunity to submit these comments. Our members look forward to working with the Commission to continue their commitment of expanding high-speed broadband connectivity throughout Nebraska.

Respectfully submitted,

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