

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of the Nebraska Public Service Commission, on its own motion, to implement standards for the verification of broadband service provider coverage and speed data. )  
Application No. NUSF-133 )

**COMMENTS OF COX NEBRASKA TELCOM, LLC**

Cox Nebraska Telcom, LLC (“Cox”) hereby submits the following Comments in response to the Commission’s March 15, 2022 Order regarding the implementation of standards for the verification of broadband service provider coverage and speed data. Cox is not a high-cost NUSF recipient; however, the Nebraska Broadband Bridge Program (“NBBP”) authorized by the Nebraska Broadband Bridge Act<sup>1</sup> includes speed testing requirements. Cox hopes to participate in the NBBP in the future and therefore files these Comments should the Commission adopt findings herein for the NBBP. As an initial matter, Neb. Rev. Stat. § 86-324.02 – the basis for opening this docket – holds that NUSF *recipients* (emphasis added) shall conduct speed tests and submit the results to the Commission. Similarly, grant *recipients* of the NBBP shall conduct speed tests and submit results to the Commission per Neb. Rev. Stat. § 86-1304. Consumer-initiated or other third-party vendor tests, therefore, cannot replace, minimize, or supersede recipients’ statutory right and obligation. It is this legal foundation by which we offer the following comments for involvement of consumers, third-party vendors, and challengers in any speed testing.

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<sup>1</sup> See Nebraska Broadband Bridge Act, Neb. Rev. Stat. §§ 86-1301 to 86-1310.

By way of example, Cox recently filed Comments in Application C-5368 relating to speed testing as part of the NBBP Year Two Program Administration.<sup>2</sup> That's because a NBBP applicant in Year One sought funding to overbuild Cox's 1 Gig broadband network in Omaha. As a result, Cox conducted and submitted speed test data to the Commission showing the capability of its 1 Gig broadband network to successfully challenge the application. While that speed testing was done to prevent a publicly-funded overbuild, the Comments that Cox filed in C-5368 are nonetheless applicable to this docket and will be briefly restated below.

Cox has no objection to the statutory requirement requiring providers to verify the performance of their publicly-funded projects with speed test data. While many providers reliably and consistently deliver the speeds they report and advertise to consumers, that is not uniformly the case. As such, it is prudent and reasonable for funding recipients to verify the capabilities of their network.

Broadband providers generally have access to aggregated speed test data generated from testing at dedicated testing locations, such as SamKnows, as well as internal metrics from monitoring their own network equipment. However, broadband providers do not typically, at this time, have the ability to remotely generate speed test data to specific customer locations. Currently testing at a specific customer's location may require deploying a field technician to manually test the download and upload speeds at the demarcation point immediately outside a customer's home, which may require making arrangements for access to the customer's property. This could require broadband providers to pull fully deployed field technicians away from regular duties to accommodate testing needs, resulting in operational disruption at the cost to

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<sup>2</sup> *In the Matter of the Nebraska Public Service Commission, on its own motion to administer the Nebraska Broadband Bridge Program in the 2022 Program Year*, Application C-5368, Comments of Cox Nebraska Telcom, LLC filed March 1, 2022, pp. 6-9.

existing customers. Therefore, to the extent manual, on-site testing is required, Cox reiterates its recommendation from C-5368 that the number of required speed tests be no more than 5% of households, with “over 500 households” capped at 25 tests.<sup>3</sup>

Cox further recommends broadband providers be allowed to satisfy speed testing requirements using various forms of reliable data. This could include aggregated speed test data from SamKnows testing sites, as well as commercially available speed data collected by qualified third parties such as Ookla. Although third-party data can generally not be targeted to specific households, it can demonstrate the measured speeds (from user-initiated speed tests) delivered by specific providers within particular counties or zip codes, which can be a reliable proxy for project areas situated within those zip codes, particularly when combined with a reasonable sampling of speed testing data as suggested above. The Commission should, of course, judge and assign proper weight to any data provided, but Cox encourages the Commission to not limit the kind of data that recipients may provide to demonstrate compliance with speed standards.

Finally, Cox supports the Commission’s position to engage consumers in the process of validating speed testing results, and Cox encourages the Commission to adopt an approach like the FCC has established regarding consumer involvement.<sup>4</sup> To simplify and advance consumer testing, Cox has a link on its website where customers can perform speed tests to better understand their Internet performance.<sup>5</sup> This tool provides insight into the performance of Cox's network and eliminates many factors that are outside of Cox's control such as device capabilities,

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<sup>3</sup> *Id.*

<sup>4</sup> See <https://www.fcc.gov/general/measuring-broadband-america> The Measuring Broadband America (MBA) program is an ongoing nationwide performance study of broadband service in the United States that developed out of a recommendation by the National Broadband Plan to improve the availability of information for consumers about their broadband service.

<sup>5</sup> The link can be found on Cox’s website at: <https://www.cox.com/residential/support/internet/speedtest.html>.

operating systems, types of browsers and home networks which may utilize Wi-Fi versus hardwire connections.

As the Commission knows, many factors can negatively affect a consumer's speed that are unrelated to the underlying network's capabilities, and hence, beyond the control of the broadband provider. Those external factors are some of the reasons why the Legislature carefully worded the statutes to reflect verification of network speeds shall be completed by funding recipients. So while customers should be encouraged to participate in testing, there should not be an obligation to do so and in no circumstances should consumer testing replace recipient's submissions to the Commission.

Cox thanks the Commission for the opportunity to file these Comments and looks forward to the opportunity to provide further input through Reply Comments.

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