

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of the Nebraska Public Service Commission, on its Own Motion, to Implement Standards for Verification of Broadband Service Provider Coverage and Speed Data

Application No. NUSF-133

ORDER OPENING DOCKET  
AND SEEKING COMMENT

Entered: March 15, 2022

**REPLY 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 March 15, 2022 (“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 Reply Comments on the Commission’s proposed standards for the verification of broadband service provider coverage and speed data pursuant to Neb. Rev. Stat. § 86-324.02, enacted in 2021, for recipients of ongoing high-cost support from the Nebraska Telecommunications Universal Service Fund (“NUSF”).

1. In its Opening Order, the Commission proposes to adopt the general framework, with adjustments, of USAC’s Performance Measures Model (hereinafter “PMM”). In addition, the Commission has requested comments related to a formal crowdsourcing or customer-initiated testing platform to compliment the formal PMM.

2. On April 15, 2022, Lumen submitted Initial Comments where it (1) generally supported the Commission’s adoption of the PMM testing platform, (2) cautioned the Commission in relying too heavily on customer-initiated testing results, and (3) offered other suggestions and considerations related to the Commission’s proposal.

3. Also filing Comments were (1) Cox Nebraska Telcom, LLC, (2) Nebraska Public Power District, (3) the Rural Nebraska Rural Broadband Association, (4) the Nebraska Rural Independent Companies, (5) The Rural Telecommunications Coalition of Nebraska, and (6) Windstream Nebraska, Inc.

4. Lumen provides the Commission with its perspective to the above-mentioned comments in these Reply Comments; however, Lumen will not provide a specific rebuttal response to every comment. Please note that Lumen's lack of comment for a specific issue does not necessarily indicate agreement.

5. There is consensus on many aspects of the Commission's proposal. One consistent comment made by several broadband providers offering comments was to be as consistent as possible with the FCC's standards:

- "As a preliminary matter, Windstream continues to assert that state-level speed testing requirements should conform as much as possible to those required by the FCC for Connect America Fund Phase II ("CAF II"), Rural Digital Opportunity Fund ("RDOF"), and other federal support programs. We certainly understand the value of speed testing and join with other carriers in acknowledging the flaws with Form 477. Windstream believes state-level speed testing that mirrors FCC requirements can provide the Commission with the data it needs while limiting the administrative and labor burdens on carriers already conducting testing under other programs. To the extent the FCC has addressed the Commission's inquiries below, Windstream's responses should be read to support conformance with federal speed testing requirements." *See* Windstream comments, pages 1-2.
- "To the extent possible, we [RTCN] suggest the Commission align its testing standards with federal requirements to avoid unnecessary duplication of effort by carriers." *See* RTCN Comments, page 2.
- "In principle, RIC supports the Commission's proposal to utilize, insofar as possible, USAC's testing model referred to as the PMM to satisfy the directives..." *See* RIC Comments, page 2-3.

6. Lumen also notes that the commenters provide comment based on their unique situation with respect to how the speed testing program will impact their specific company. While this is to be expected, there are fundamental differences between how RLECs and price cap carriers are

regulated just as there are fundamental differences between how RLECs and price cap carriers are supported by the NUSF for broadband. Consequently, creating a one-size fits all testing program without allowing Staff discretion to address such differences is not a practical solution. Lumen strongly recommends the Commission create a general blueprint for speed testing but allow carriers to work with Staff to identify areas where carrier-specific flexibility is needed when good cause is demonstrated. Lumen specifically notes that the scope or extent of speed-testing data provided should be consistent with federal requirements. *See* 18 USC 2703(c)(2).

7. Additionally, providing carriers with needed flexibility in the Commission’s testing initiative is supported by several other commenters:

- “To mitigate duplication of effort by carriers and reduce the administrative burden on the Commission, we believe it both possible and prudent for the Commission to create a “safe harbor”-style system where carriers demonstrating compliance with FCC speed testing requirements over their served locations are deemed compliant with the requirements of Neb. Rev. Stat. § 86-324.02. We encourage the Commission to consider fashioning a provision which would permit carriers subject to Neb. Rev. Stat. § 86-324.02 to apply for an exemption provided the carrier can demonstrate the following [criteria]”. *See* RTCN Comments, pages 2-3.
- “Cox further recommends broadband providers be allowed to satisfy speed testing requirements using various forms of reliable data.” “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.” *See* Cox Comments, page 3.

8. Lumen also offers Reply Comments to the NRBA’s view of a competitive broadband landscape and its desire to expand this docket to ongoing support. *See* NRBA Comments, page

3. It is important to note that no company needs Lumen's permission to invest and compete in Lumen's certificated territory. No company needs special FCC, Commission, or city permission to deploy broadband if that company is willing to invest its own capital. Lumen currently faces intense and growing competition in nearly every exchange because free-market broadband competition is flourishing in Nebraska. The NRBA is confusing broadband *consumer*

competition with broadband *subsidy* competition; however, they are completely different and distinct concepts.

9. Finally, this docket is not about ongoing support. If ongoing support were available to all carriers, not just a few select carriers, then the broadband landscape would indeed look different. The NRBA's erroneous suggestion that every location receiving ongoing NUSF high-cost support must be capable of offering broadband with speeds at or greater than 100/100 ignores the fact that price cap regulated carriers receive ongoing NUSF support only for voice services and not for broadband. As mentioned above, there are fundamental differences between how RLECs and price cap carriers are regulated just as there are fundamental differences between how RLECs and price cap carriers are supported by the NUSF for broadband. Just as a one-size fits all approach has not been adopted for NUSF funding purposes, a one-dimensional approach to speed testing verification should not be adopted. Instead, Lumen respectfully suggests that carriers should be allowed the ability to work with Staff where flexibility is needed and can be justified.

Dated this 4th day of May, 2022.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 4th day of May 2022, a true and correct copy of the foregoing was served via electronic mail to:

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