

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public)	Application No. NUSF-133
Service Commission, on its own)	
motion, to implement standards for the)	ORDER OPENING DOCKET AND
verification of broadband service)	SEEKING COMMENT
provider coverage and speed data.)	
)	Entered: March 15, 2022

REPLY COMMENTS OF WINDSTREAM

Windstream Nebraska, Inc., (“Windstream”) has reviewed the initial carrier comments submitted in NUSF-133 and was pleased to see there was much consensus among the carriers. In particular, the desire to adopt speed testing parameters and performance measures that tracked closely, if not identically, to those required by the Federal Communications Commission (“FCC”) was widely shared. Many carriers have committed significant resources to ensure compliance with federal guidelines and Windstream agrees that sufficient data can be obtained from the state-level implementation of the federal guidelines without an additional burden on carriers.

Carriers largely responded in a narrative form to the questions posed by the Nebraska Public Service Commission (“Commission”) in NUSF-133. However, the Nebraska Rural Independent Companies (“RIC”) also included as Exhibit A to their comments a list of proposed speed testing protocols (“Protocols”). Windstream notes that some of the Protocols diverge from those in the Performance Measures Model (“PMM”) issued by the Universal Service Administrative Company and offers the following reply comments in response to some of those Protocols:

A. ON-SITE TESTING

In Paragraph 1 of the Protocols, RIC proposes a carrier receiving Nebraska Universal Service Fund (“NUSF”) dollars (“Recipient”) be required to “test speed from the premises of active subscribers. . . to a remote test server” Conversely, the FCC standards discuss testing

“between” a subscriber’s location and the remote test server.

As written, RIC appears to be advocating for on-site testing; however, RIC may have inadvertently caused confusion in its reframing of the PMM. In an abundance of caution, Windstream would like to reiterate statements made in its initial comments in this docket in opposition to on-site testing requirements. Windstream requests remote testing be an acceptable method of speed testing when required by the Commission. On-site testing is not only inconvenient for the customer but also requires significantly more resources. Windstream believes labor resources are better used for network maintenance and expansion, and that the resources needed to replicate automated remote testing do not have a parallel payout in improved testing data.

B. TESTING REQUIREMENTS

Windstream would like to note that the Test Requirements in Paragraph 3 of the protocols require download and upload tests, but do not require latency tests. Windstream does not oppose exclusion of latency testing and merely seeks to highlight a departure from the PMM.

C. LOCATIONS SAMPLE

Paragraph 6 of the Protocols requires the Recipient to randomize the locations selected for speed testing. Windstream supports the methodology, but requests that the Commission consider reasons why a location may be ineligible for speed testing and permit alternative locations to be substituted for ineligible locations. There are a number of reasons why a location may be ineligible for compliance speed testing, including the customer modem does not support remote testing, the customer is no longer an active subscriber, or the customer is in “vacation status” or has their equipment turned off. RIC proposes that testing should be limited to those served by an NUSF-supported project requiring minimum speeds of 100/100 Mbps; if testing was required of other carrier locations, the serving technology (e.g., DSL) could also be a barrier to testing for 100/100

Mbps speeds.

D. FREQUENCY OF TESTING

Paragraph 8 of the Protocols imply that speed testing will be performed post-completion and that carriers will be afforded an opportunity to repeat speed testing in order to reach the speed test compliance rate. If this protocol is adopted, Windstream requests more clarification on when the initial speed test must be performed, how soon after a carrier's speed tests fail to meet the compliance rate the carrier can or must perform subsequent speed testing, and whether there is a limit on how many speed tests can be performed before a project is deemed out of compliance.

Respectfully submitted on this the 4th day of May, 2022.

WINDSTREAM NEBRASKA, INC.

By: s/Mary E. Jacobson
Mary E. Jacobson, #25776
Bruning Law Group
1201 Lincoln Mall, Suite 100
Lincoln, NE 68508
mary@bruninglawgroup.com

and

Ann Ames
Trent Fellers
Windstream Nebraska, Inc.
1440 M Street
Lincoln, NE 68508
Ann.Ames@windstream.com
Trent.Fellers@windstream.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 4, 2022, an electronic copy of the foregoing Reply Comments on behalf of Windstream Nebraska, Inc. in NUSF-133 was delivered to:

Cullen.Robbins@nebraska.gov

Brandy.Zierot@nebraska.gov

/s/ Mary Jacobson _____

Mary Jacobson