

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. NUSF-117
Public Service Commission, on its) Progression Order No. 1
own motion, to consider)
implementing a program to) ORDER SEEKING COMMENT
incentivize new fiber construction)
for E-Rate eligible entities.)
) Entered: April 11, 2023

BY THE COMMISSION:

The Nebraska Public Service Commission ("Commission") initiated this proceeding on December 10, 2019 in order to implement a program within the Nebraska Universal Service Fund ("NUSF") to incentivize new fiber construction for E-Rate eligible entities. The Commission sought comments on the federal E-Rate Special Construction matching fund program, and a hearing in this matter was held on April 1, 2020. Based upon the comments received and hearing testimony, the Commission entered an order in this docket on May 19, 2020 ("May 19 Order") which established an E-Rate Special Construction Matching program for the purpose of providing matching support to Nebraska Eligible Telecommunications Carriers ("NETCs") for connecting E-Rate eligible entities with fiber connections where there is no existing fiber connection.

Pursuant to the May 19 Order, Nebraska's E-Rate program (the "E-rate program") currently serves as a supplemental support mechanism to enable entities to maximize federal E-Rate special construction program support. A total budget of \$1 million was allocated to the program between E-Rate program years 2021 through 2024 to complete fiber construction to E-Rate eligible libraries and schools, or eligible consortia, which are not fiber-connected at the time of application. The Commission further issued grant application forms and guidance for entities interested in participating in the program in its May 19 Order.

The Commission now issues the above-captioned Progression Order for the purpose of revisiting Nebraska's E-Rate program to determine whether any changes to the program are warranted. The Commission therefore sets forth several topics for comment below. Comments responsive to these issues may be submitted to the Commission on or before **May 26, 2023 at 5:00 p.m. Central Time**, with reply comments due on or before **June 16, 2023 at 5:00 p.m. Central Time**. Comments and reply comments should be submitted to

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. NUSF-117

Progression Order No. 1

Page 2

psc.nusf-filings@nebraska.gov. Following review of comments submitted, the Commission may set this matter for public hearing.

Issues for Comment

The Commission seeks feedback on the progress of the Nebraska's E-Rate program to date, and the future of the program going forward. Specific questions are set forth below.

1. Participation in the E-Rate Program

While any E-Rate eligible school or library can apply for funding under Nebraska's E-Rate program, since the inception of the program, participation in the program has been relatively low. The Commission seeks information on how best to increase participation in the program. What opportunities can the Commission pursue to increase participation and cover costs incurred by schools, libraries, and Consortiums ("participating entities") in installing fiber networks? What barriers do participating entities currently face in relation to participation in the E-Rate program? Are there any partnerships or outreach opportunities which the Commission should pursue?

The Commission seeks feedback as to how it might mitigate any existing issues preventing access to the program.

2. Reimbursable Expenses

Statutory authority for the Nebraska E-Rate Special Construction Matching Fund originates from Neb. Rev. Stat. § 86-332. Pursuant to this section, the program shall receive NUSF funding to provide incentives for fiber optic cable to be constructed to benefit public libraries. Additionally, the purpose of NUSF as set forth in Neb. Rev. Stat. § 86-317 is "to authorize the commission to establish a funding mechanism which supplements federal universal service support mechanisms and ensures that all Nebraskans, without regard to their location, have comparable accessibility to telecommunications services at affordable prices."

The Commission now seeks to review what expenses may be eligible for reimbursement in Nebraska's E-Rate program. At present, expenses eligible for reimbursement in the program are

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. NUSF-117

Progression Order No. 1

Page 3

limited to costs incurred for Special Construction. For the purposes of the E-Rate program, Special Construction charges are the upfront, non-recurring costs of deploying new fiber to the premises ("FTTP") or upgrading facilities to E-Rate eligible entities. Special Construction consists of three components: (1) construction of network facilities; (2) design and engineering; and (3) project management. Special Construction does not include charges for network equipment.

The Commission seeks input on whether the expenses it designates as eligible for reimbursement within Nebraska's E-Rate program should be expanded. For example, along with Special Construction, the federally defined E-Rate Category One includes costs for monthly charges, installation and activation charges, network equipment necessary to make a Category One wired or wireless broadband service functional, and maintenance and operation charges.¹ Should the Commission consider expanding eligible expenses to include any of these categories? What items or services are most needed by eligible entities in Nebraska? What additional eligible expenses might be reimbursable pursuant to Neb. Rev. Stat. §§ 86-332 and 86-317?

Additionally, the federally defined Category Two of E-Rate includes internal connections needed for broadband connectivity within schools and libraries. This includes repair, upkeep, and maintenance of networks, software upgrades, and third-party support. The Commission seeks comment as to which, if any, of these services would most increase participation in the E-Rate program. Should any of these services be eligible for reimbursement in Nebraska as well? If so, what considerations or limitations should the Commission consider in allowing these expenses to be reimbursable? Conversely, are there any expenses which should be specifically excluded from E-Rate reimbursement?

3. Continuation of Nebraska Program

Nebraska's E-Rate program was originally planned to be available for a four-year time period, for E-Rate program years 2021 through 2024. The program is therefore set to end after E-

¹ *In the Matter of Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Order, Appendix B (Dec. 14, 2022) (Order issuing the 2023 Eligible Services List).

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. NUSF-117

Progression Order No. 1

Page 4

Rate program year 2024, which ends June 30, 2025. The Commission seeks comment on whether the program should be continued, and if so, for what period of time. Would it be appropriate to continue the project for another four years? Alternatively, should the program be set to automatically continue on an annual basis?

4. Certificated Carrier Requirements

The Commission has heard feedback regarding the current reimbursement process. Under the current Nebraska E-Rate program rules, the Commission sends reimbursement for eligible costs to the NETC that is the service provider for the application. However, the federal E-Rate program allows the participating entity the option to pay the service provider invoice in full and request reimbursement from the Universal Service Administrative Company ("USAC").

The Commission suggests the following approach be adapted in relation to Certificated Carrier requirements: A carrier bidding on and providing services to participating entities would be required to agree to place the amount authorized for state support as a credit on the participating school, library or Consortium's account. The Commission would then require a copy of an invoice showing that the credit has been placed prior to releasing the state support to the service provider. The Commission further proposes that in cases where the state support amount creates a credit balance on a participating entity's account, the service provider would be required to agree to allow the participating entity to either utilize the credit for future service or issue a refund check at the school, library, or Consortium's request. Is this approach feasible?

5. Additional Topics

In addition to the questions posed above, the Commission welcomes comments on any additional topics relevant to the current status, and the future of, Nebraska's E-Rate program.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. NUSF-117
Progression Order No. 1

Page 5

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that comments responsive to the questions posed in this Order may be filed on or before **May 26, 2023 at 5:00 p.m. Central Time** by email to psc.nusf-filings@nebraska.gov.

IT IS FURTHER ORDERED that reply comments in this matter may be submitted on or before **June 16, 2023 at 5:00 p.m. Central Time** by email to psc.nusf-filings@nebraska.gov.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 11th day of April, 2023.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Eric M. Hamler

[Signature]

Tim Schram

Kevin Stocker

[Signature]

Chair

ATTEST:

Thomas W. Golden
Executive Director