

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public)
Service Commission, on its Own Motion,)
to Consider Appropriate) Application No. NUSF-139
Modifications to the High-Cost Distribution)
and Reporting Mechanisms in its)
Universal Service Fund Program in)
Light of Federal and State)
Infrastructure Grants)

COMMENTS OF COX NEBRASKA TELCOM, LLC

Cox Nebraska Telcom, LLC (“Cox”) hereby files the following Comments for the Nebraska Public Service Commission’s (“Commission”) consideration in the above-captioned docket, NUSF-139. These Comments are being filed pursuant to the Commission Order entered August 29, 2023 and respond to the questions posed in Subpart A. Cox supports the Commission examining what Nebraska Universal Service Fund (“NUSF”) policies are best for the current environment, particularly considering the millions of dollars coming to Nebraska through the federal Broadband Equity, Access, and Deployment Program (“BEAD”). Cox thanks the Commission for this opportunity and looks forward to participating in this docket.

A. Aggregating the FCC’s Broadband Data Collection (“BDC”) Data

Cox supports the Commission’s proposal to aggregate BDC data to determine high-cost support distribution in light of the discontinuance of the FCC Form 477. BDC data is available to the Commission and the FCC has clear instructions how to access the location fabric. Obtaining BDC data from the FCC will give the Commission the comprehensive broadband availability data it needs in an efficient manner.

Cox does not support the suggestion the Commission could obtain data directly from carriers to speed up the NUSF distribution process. The Commission does not have regulatory

authority over many providers and, therefore, the data it collects will likely be incomplete. It is doubtful the Commission will receive data from every unregulated provider that submits data to the FCC. Thus, the Commission's data will likely be limited and inaccurate. Obtaining data directly from the FCC could take slightly longer, but it will yield the correct results that the public deserves. Getting it done right by receiving data directly from the FCC outweighs moving forward with errors.

B. Challenge Process

First, Cox appreciates the Commission's commitment to the responsible distribution of the NUSF. To ensure the public's dollars are spent where they are truly needed and to prevent overbuilding, it is critically important a robust challenge process exist. And to that end, Cox encourages the Commission to use the FCC's challenge process. The FCC's process is well-known and location-specific, and the promulgated requirements are recognized and understood. The Commission should take advantage of the process the FCC has created, rather than spend time implementing a new method. Not only will that cause a delay in distributing funds, but there is a substantial risk for confusion and mistakes by providers. Furthermore, different challenge processes could lead to a location that is challengeable under the FCC's methodology, but not under the Commission's, or vice-versa.

Second, Cox opposes the concept to base a challenge on whether service is "presently provided", as opposed to whether the service could be provided within ten (10) business days of a request with no extraordinary monetary charges or delays attributable to the extension of the provider's network. Setting the definition of served as 'currently provided' will mean Nebraskans who have readily available access to broadband, should they simply request it, will be identified as unserved. The FCC's definition is reasonable. Service is available if a provider

has, or had a connection to the location, or could initiate service through a standard installation within ten (10) business days of the request without excessive charges and delay. Cox urges the Commission to adopt the FCC’s challenge process, and its definition of served.

Finally, Cox urges the Commission to set a benchmark of 100/20 Mbps speed for the definition of “served”. While Nebraska’s statutes reference 100/100 Mbps speeds, these are objectives set forth for completed NUSF and Nebraska Broadband Bridge Program (“NBBP”) projects, not the standard for a location to be considered “served”.¹ Using a 100/100 Mbps speed would lead to overbuilding recent construction projects, including those not even completed and are forthcoming through BEAD, the Enhanced Alternative Connect America Fund (after October 1, 2023) and the Rural Digital Opportunity Fund (“RDOF”) since those programs utilize a 100/20 Mbps project speed threshold.

The Commission has a sensible, long-standing policy that the NUSF will not be used to overbuild. Not only is it a waste of scarce funds, but it affects the ability to assist Nebraskans who are still receiving 25/3 and 50/10 Mbps service and genuinely need NUSF support. Cox encourages the Commission to establish a 100/20 Mbps benchmark to consider a location “served”. This standard conforms with Nebraska laws governing the Broadband Bridge Act, the redirection of NUSF support and is consistent with federal standards.²

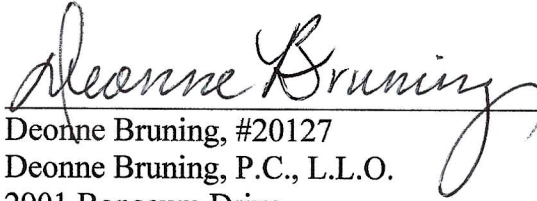
In closing, Cox thanks the Commission for opening this docket and for the opportunity to provide input on this important topic.

¹ Neb. Rev. Stat. Sec. 86-324.01 and Neb. Rev. Stat. Sec. 86-1304.

² In the Nebraska Broadband Bridge Act, Neb. Rev. Stat. Sec. 86-1302(11) defines an underserved area as one that lacks broadband speed of 100/20 Mbps. Additionally, Neb. Rev. Stat. Sec. 86-330(4) provides funding shall not be withheld where infrastructure is capable of providing 100/20 Mbps.

Submitted this 29th day of September 2023.

ATTORNEY FOR COX NEBRASKA TELCOM, LLC

A handwritten signature in cursive script that reads "Deonne Bruning". The signature is written in black ink and is positioned above a horizontal line.

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