

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-139
Public Service Commission, on its)	
own motion, to consider appropriate)	COMMENTS OF THE RURAL
modifications to the high-cost distribution)	TELECOMMUNICATIONS
and reporting mechanisms in its Universal)	COALITION OF NEBRASKA
Service Fund program in light of federal)	
and state infrastructure grants.)	

INTRODUCTION

The Rural Telecommunications Coalition of Nebraska (“RTCN”)¹, by and through its undersigned counsel of record, submits these Comments (“Comments”) in response to the Order Opening Docket and Seeking Comment (the “Order”) entered by the Nebraska Public Service Commission (the “Commission”) on August 29, 2023 in the above-captioned matter. As the Order specifies, these Comments relate only to those issues set forth in Section II.A of the Order.

COMMENTS

I. ELIGIBLE AREAS DETERMINATION FOR HIGH COST DISTRIBUTION

The primary issues raised in Section II.A of the Order relate to the Commission’s process for determining eligible areas for high-cost distribution support, and the challenge process for those determinations. The Order suggests that the Commission may “aggregate” the FCC’s broadband data collection (“BDC”) data and utilize such data for the purpose of determining high-cost support distributions for the next calendar year. Further, the Order poses the question of whether the Commission should scuttle its current challenge process and instead rely upon carrier challenges to the BDC data at the federal level.

¹ For purposes of this proceeding, the RTCN consists of the following carriers: Arapahoe Telephone Company d/b/a ATC Communications; Benkelman Telephone Company, Inc., Cozad Telephone Company, Hartman Telephone Exchanges, Inc., Diller Telephone Company, Southeast Nebraska Communications, Inc., Pierce Telephone Company, and Wauneta Telephone Company.

Taking a long term view, the RTCN would conditionally support such changes. In the past, the RTCN has encouraged the Commission to eliminate largely duplicative state and federal requirements and advocated for the Commission to align state and federal standards and requirements where possible. Our conditional support for such changes is in keeping with that philosophy. However, our support for such changes is conditioned upon the FCC’s BDC data and challenge process maturing into reliable mechanisms for determining broadband availability in Nebraska. As explained below, we do not believe at present that bar has been reached – nor do we expect it to be reached quickly enough for the BDC data and challenge process to be useful in determining high-cost distributions for the 2024 calendar year.

The FCC’s BDC is built upon the fabric of nationwide “broadband serviceable locations” – or BSLs – developed by Costquest Associates. As the Order alludes, the fabric is currently proprietary and unresolved issues exist for the Commission in “accessing the licensed dataset” for the purpose of determining eligible census blocks for high-cost distribution support. Aside from accessibility questions, issues with respect to the accuracy and reliability of the fabric have been well publicized. Owing to the various data sources aggregated in the fabric, we are aware of instances where the BDC contains BSLs where none truly exist.

More concerning are the known issues with data related to broadband availability. As the Chairwoman of the FCC acknowledged in a letter to Congress earlier this year, early iterations of the BDC contained “systematic overreporting of coverage by broadband service providers.”² As the Chairwoman’s letter notes, the FCC is conducting an investigation into such overreporting. RTCN members have observed multiple instances of overreported coverage by wireless service providers within the initial Nebraska BDC data. While we expect these issues to improve as

² Letter dated February 3, 2023 from FCC Chairwoman Jessica Rosenworcel.

providers utilize the FCC’s challenge process, it cannot now be said that the BDC data provides a reliable, accurate depiction of Nebraska locations with broadband availability. The BDC is an evolving dataset, and RTCN members believe that more time is needed for it to evolve into a suitable data set for high-cost distribution determinations.

In light of these issues and for the purpose of accomplishing an interim solution for the distribution of high-cost support for the 2024 calendar year *only*, the RTCN suggests the following steps:

- For purposes of 2024 high-cost distribution determinations, the Commission’s baseline of eligible census blocks for deployment and ongoing support should be the Commission’s 2023 data and determinations, adjusted for carrier-reported service deployments during the 2023 calendar year.
- To accomplish this task, the Commission should establish during the fourth quarter of 2023 a window for carriers to self report to the Commission new census blocks served during the 2023 calendar year. Thereafter, the Commission should follow its normal cadence of publishing a preliminary list of served census blocks for 2024 support and permitting carriers an opportunity to challenge those preliminary determinations.
- During the later part of 2024, the Commission should revisit the issue of adopting the federal data set and federal challenge process for 2025 high cost support determinations.

The RTCN suggests that the Commission view 2024 as a “transition” year for high-cost support allocations. To do so, the Commission should base 2024 support allocations on the 2023 allocations produced by the model with adjustments only for newly served census blocks. We make this suggestion for several reasons.

First, rather than charging headlong into adoption of the federal data and federal challenge process for high cost determinations, the approach suggested above permits a reasonable amount of time for the continued evolution of the BDC and anticipated improvements in its accuracy and reliability. We anticipate that potential changes in federal USF support elections will incentivize carriers to be vigilant and active during the next year in challenging and correcting Nebraska information in the BDC related to BSLs and service availability. Such improvements in the BDC data and federal challenge process should increase confidence in the Commission’s transition to using the federal data and challenge process for the purpose high-cost determinations on a permanent basis.

Second, the reform issues raised in Sections II.B and II.C of the Commission’s Order in this docket are myriad and broad. The Commission’s determination of these issues, combined with upcoming carrier elections on the Enhanced A-CAM offer, carry the potential for substantially reshaping high-cost allocations in the future. Instead of rushing through the determination of these highly important issues for the purpose of implementing changes for the 2024 calendar year, we believe there is substantial value in taking more time to fully model, understand, and adjust for impacts before implementing major reforms. Treating 2024 as a “transition” year for high cost support distributions would allow more notice and a better opportunity for carriers to manage substantial changes in support should they come to fruition.

II. BUILDOUT PROJECT PAYMENT STRUCTURE

Section II.A of the Order also poses an inquiry regarding reforms to the Commission’s current practices for reimbursing carriers for buildout projects. Currently, the Commission utilizes a “reimbursement-based mechanism” – in other words, carriers are not paid for any portion of a buildout project until completion. As the Order notes, the current mechanism

promotes accountability but results in an undesirably high balance of funds in the NUSF. The Commission requests input on alternative payment structure mechanisms that ensure accountability but mitigate the “build-up” of the NUSF balance.

The RTCN believes that the Commission’s Nebraska Broadband Bridge Program payment structure satisfies both criteria. Under the NBBP, 25% of the funds are distributed upon award of the grant, 25% are distributed nine months later, and the final 50% is distributed upon completion of the project, successful speed testing results, and submission of actual costs incurred. Utilizing the NBBP’s structured payment schedule would certainly aid in reducing the NUSF balance. Further, we believe the NBBP’s payment schedule strongly promotes accountability by withholding a full 50% of funds until completion of all program requirements.

DATED: September 29, 2023.

**RURAL TELECOMMUNICATIONS
COALITION OF NEBRASKA**

**Arapahoe Telephone Company d/b/a
ATC Communications, Benkelman
Telephone Company, Inc., Cozad
Telephone Company, Diller Telephone
Company, Hartman Telephone
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