

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public) Application No. C-5561
Service Commission, on its own motion,)
to administer the Nebraska Broadband)
Bridge Program in the 2024 program year.)

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, C-5561. These Comments are being filed pursuant to the Commission Order entered February 6, 2024. The Commission posed important several questions and Cox responds to two items of most concern. Cox appreciates the opportunity to provide these Comments and looks forward to participating in the next round of the Nebraska Broadband Bridge Program (“NBBP”).

A. Use the Average, not the Median Rate for Benchmarking

In the 2022 and 2023 NBBP program years, the Commission adopted a rate benchmark based on the *median* offered by successful applicants in the year prior. The benchmark was calculated using awardees’ at least 100/100 Mbps service. For the 2022 NBBP program year, the benchmark was \$80.50 per month based on the rates offered by successful applicants in the 2021 NBBP program year. For the 2023 NBBP program year, this benchmark rate was \$65 per month. In reviewing the rates offered by 2023 NBBP awardees, the median rate for the 2024 program will be \$49.99. The average rate will be \$55.31.

In response to the Commission noting that these rate offerings are markedly lower than in previous program years and deciding whether this methodology for scoring rate comparability should be adjusted, Cox maintains that the benchmark rate should become the *average* of 100/100

Mbps service vs. the median. Generally speaking, averages are used when data is uniform vs. the median where there are many outliers which is not the case here. In addition, if the median price is artificially low (e.g., to obtain added points), it will lead to needing increased NBBP (or other state) support to build networks. Cox maintains that the Commission continue its policy of having prices look, more or less, the same for both subsidized and non-subsidized areas. In doing so, the Commission ensures consistency with Neb. Rev. Stat. § 86-1306(2)(c), as modified by LB 1144, examining whether an applicant's ability to offer rates in the project area is comparable to its rates outside the project area. For further support to adopt the average for rate benchmarking in the NBBP, Cox notes the Commission allows a weighted average of rates to be submitted to demonstrate an awardee's five-year rate, after project completion.¹ The average is a reasonable measure to compare the affordability of applications against one another. Cox recommends the Commission award five (5) points for projects whose pricing is at or below the average rate offered by awardees in the previous NBBP program year. That said, Cox suggests that given the fluidity of pricing, the Commission leave open the door to revisit this new rate methodology should averages not yield intended results; that is, uniform rates independent on federal or state subsidies to recapture lost revenue.

B. A Cybersecurity Plan should be a Post-Award Requirement

Cox recognizes the importance of robust cybersecurity practices for the country's broadband network and takes the protection and security of its network seriously. This topic is one

¹ *In the Matter of the Nebraska Public Service Commission, on its own motion, to administer the Nebraska Broadband Bridge Program in the 2023 program year*, Application No. C-5484, Order Issuing 2023 Grant Application Schedule and Application Materials, (May 16, 2023). See Footnote 44 which states in part: ...If a provider prefers to build in price changes or increases over the five-year period, the Commission will consider the weighted average of the rates offered during the five-year period, p. 13.

of national importance how to best address evolving and modernistic threats. The goals of the Commission and Cox are in alignment regarding cybersecurity, that is to ensure broadband networks are safe and protected from domestic and international threats.

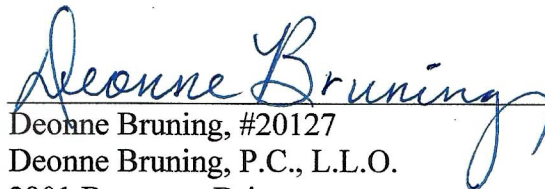
First, Cox recommends the Commission utilize the federal requirements so uniform requirements exist in Nebraska, be that for the BEAD program administered by the Broadband Office or the NBBP administered by the Commission. Federal (NIST, CISA, etc.) Cybersecurity Risk Management requirements are based on well-developed industry standards and supported by expert agencies. The Commission should use the NTIA BEAD program Cybersecurity Security Risk Managements as an acceptable model and not add cybersecurity frameworks above and beyond those already required by federal broadband grant programs. Any additional requirements could impact carrier participation.

Second, due to the ongoing finalization of NTIA BEAD cybersecurity plans for companies, Cox recommends the Commission add the submission of a cybersecurity plan as a post-award requirement, rather than a requirement in the initial application or as a scoring criterion. However, Cox supports the submission of a cybersecurity plan as a post-award condition. Providing this material to the Commission if a 2024 NBBP grant is awarded is a reasonable request. The Commission should maintain the confidentiality of all cybersecurity material.

In closing, Cox thanks the Commission for this opportunity to provide input on the NBBP, and respectfully asks its comments to be taken into consideration.

Respectfully submitted this 1st day of March, 2024.

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