

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public) Application No. CPF-2
Service Commission, on its own motion)
to administer the second round of)
federal Capital Projects Funds for)
broadband development in Nebraska.)

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, CPF-2. These Comments are being filed pursuant to the Commission Order entered August 15, 2023. Cox appreciates the opportunity to provide these Comments and looks forward to participating in the second round of the Capital Projects Fund (“CPF”).

A. Per Project Location Funding Cap

Cox is committed to the efficient and responsible use of all public funding it is awarded. Such stewardship is especially critical in Nebraska, where the designated grant areas come with substantial financial demands and challenges to construct broadband expansion projects. As such, it is important the Commission refrain from instituting a funding cap on CPF-2 projects, and instead continue to find ways to increase support and create incentives for the expansion of broadband into un-and-underserved areas. Broadband projects vary widely in cost, and are influenced by many factors such as geography, technology, and population density. Implementing a funding cap would hinder the Commission’s flexibility to allocate funds according to the unique needs and demands of each project.

Furthermore, many of the third-party data sources that could be utilized to set a funding cap have shown significant inaccuracies in their calculation estimates. Broadband network

deployment is a complex process influenced by various technical, geographical, and regulatory factors. Third-party cost models attempt to simplify this complexity through estimation, but they cannot capture all nuances, such as localized availability and cost of aerial versus buried plant, a region's terrain, labor costs, supply chain challenges and other elements that vary dramatically from one location to another. Cox does not support the creation of a per-project location cap because, for the reasons mentioned above, third-party methodologies will not provide the Commission with suitable information to establish an accurate number and thus, could strap providers with unnecessary funding pressures as they work to complete projects on time.

B. Past Performance Consideration

The evaluation of past performance metrics holds significant importance in guaranteeing the successful deployment and operation of broadband networks by grant recipients. While the existing criteria encompasses elements like annual reporting, remittance reports, and the identification of potential obstacles, the Commission could consider incorporating enhanced scoring criteria to award points to applicants that have a proven track record of financial and technical capability to build, manage, operate, and maintain sustainable broadband networks, and a history of offering successful affordability and digital equity programs.

Requiring applicants to secure the approval of appropriate city or county governing entities could help ensure projects align with community needs. However, it is important that any such requirement be clear, feasible and most of all achievable considering the often complex and varied local regulatory landscape that exists to receive approval given the limited time and short window allocated for application development and submission.

C. Project Areas and Preventing Manipulation

In the evaluation of contiguous vs. non-contiguous project areas, it is essential to maintain a fair and consistent approach. In cases where a street runs through the middle of a project area and it is served, it makes sense to not include it within a project's boundary. This approach aligns with the overall objective of targeting areas that genuinely lack broadband access and are un-and-underserved.

Furthermore, we encourage the Commission to reevaluate its current method of giving prioritization to projects that exclusively target unserved locations, often at the expense of projects that aim to address both un-and-underserved locations. The state could enhance its effectiveness to reach more Nebraskans by allowing providers the flexibility to propose a comprehensive business plan to extend services to both un-and-underserved locations. Currently, during the grant application process to receive Priority Tier 1 in the evaluation process, providers must concentrate on projects designed to reach only the unserved which can lead to an inefficient allocation of resources and potentially impede the overarching objective of expanding broadband access. Proposed projects that would also deploy broadband services to underserved locations, in addition to the unserved locations appear, from a scoring standpoint, to be disadvantaged. For example, two hypothetical projects are illustrated below:

- 1.) Project A: Aims to reach 100 unserved locations with a subsidy request of \$1 million. As a Priority Tier 1 application, it will be awarded in the first category.
- 2.) Project B: Aims to reach 100 unserved locations plus 20 underserved locations, also with a \$1 million subsidy request. But as a Priority Tier 2 application, it will only be awarded if any funding remains after Tier 1 Projects have been awarded.

We respectfully urge the Commission to consider these implications and explore potential refinements to the priority tier award criteria for grant applications to ensure the most effective use of resources in advancing broadband access across Nebraska.

D. Other: Overlapping Projects

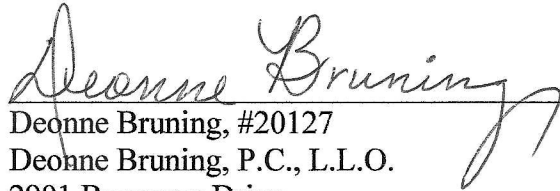
While not specifically addressed, Cox weighs in with a suggestion how to procedurally modify situations when overlapping/competing applications propose to serve substantially similar project areas. Cox supports the Commission's practice of evaluating and scoring each proposal independently and awarding funding to the applicant with the highest score. Cox also supports the Commission's tie-breaking measure of giving preference to the applicant proposing the lowest cost to build per location.

Cox asks the Commission to consider including an additional step that when projects overlap to provide the applicant with the lower score the opportunity to remove the conflicting locations from its project and remain in the applicant pool for further consideration. In some cases, the lower-scoring applicant may be able to revise its project and extend service to the non-overlapping locations, thereby enhancing the overall coverage area. However, in other instances, an applicant's proposal may have been contingent upon leveraging economies of scale or shared infrastructure across the originally proposed locations. In that scenario, a revised application may no longer represent an efficient allocation of funding once the overlapping locations are removed. In such cases, the applicant may choose to withdraw its application, or leave it as-is knowing it will not be approved in its present form.

In closing, Cox thanks the Commission for the opportunity to provide input on the distribution of funding in CPF-2, and respectfully asks its comments be taken into consideration.

Submitted this 15th day of September 2023.

ATTORNEY FOR COX NEBRASKA TELCOM, LLC

A handwritten signature in cursive script that reads "Deonne Bruning". The signature is written over a horizontal line.

Deonne Bruning, #20127
Deonne Bruning, P.C., L.L.O.
2901 Bonacum Drive
Lincoln, NE 68502
(402) 440-1487
deonnebruning@neb.rr.com