

## **Nebraska Universal Service Advisory Board Meeting Friday, April 23, 2021 – 1:30 PM**

The Nebraska Universal Service Advisory Board met April 23, 2021. The meeting was held as a web-based/teleconference meeting.

Gene Hand, Chair of the Advisory Board, called the meeting to order at 1:32 pm. Chair Hand stated that a copy of the Nebraska Open Meetings Act is posted in the Commission Hearing Room and on the Nebraska Public Service Commission website.

The Board went through member roll call with all Board members announcing their presence. Quorum status was established. The following Board members were in attendance:

Al Lubeck;  
Ben Backus;  
Carrie Gans;  
Christa Porter;  
Dwight Wininger;  
Gene Hand;  
Gregg Ptacnik;  
Rodney Triplett.

Others in attendance: Andrew Vinton of Nebraska Legislature; Gary Needham of ESU 9; and Joselyn Luedtke of Zulkoski Weber

Present from the Public Service Commission were Cullen Robbins, Shana Knutson, Laurie Casados, Brandy Zierott, and Deb Collins.

### **Approval of Agenda**

Gregg Ptacnik made a motion to approve the agenda, seconded by Al Lubeck. Upon roll call vote of all Board members, the motion passed unanimously with board members Porter, Hand, Backus, Lubeck, Ptacnik, Triplett, Wininger and Gans voting in favor.

### **Introductions/Terms of Board Members**

Board members introduced themselves and stated their past and current position and experience.

Greg Ptacnik informed the Board that he will be retiring from Great Plains Communications and therefore, will be resigning from the Advisory Board as Telecommunications representative.

Cullen Robbins discussed the resignation of SuAnn Witt and the vacancy of the School representative. Gary Needham with ESU 9 was discussed as a replacement for that Board position. Mr. Needham's name will be put before the Commission for approval to the Advisory Board in the near future.

### **Election of Chair and Vice-Chair**

Greg Ptacnik made a motion to retain Gene Hand as Chair, seconded by Doc Winger. Upon roll call vote of all Board members, the motion passed unanimously with board members Porter, Hand, Backus, Lubeck, Ptacnik, Triplett, Winger and Gans voting in favor.

Gene Hand made a motion to retain Christa Porter as Vice-Chair, seconded by Rod Triplett. Upon roll call vote of all Board members, the motion passed unanimously with board members Porter, Hand, Backus, Ptacnik, Triplett, Winger and Gans voting in favor.

### **Approval of Meeting Minutes from April 29, 2020 Meeting**

Gene Hand asked the Board for any corrections or addition to the meeting minutes from April 29, 2020. No response was received. Upon roll call vote of all Board members, the motion passed unanimously with board members Porter, Hand, Backus, Lubeck, Ptacnik, Triplett, Winger and Gans voting in favor.

### **Discussion of Bylaws**

Review of the approved 2020 Bylaw changes was held. The start and end of present Board Member's terms were clarified.

Gene Hand proposed an amendment to Section II Subsection B, 2 as follows: "Terms begin January 1 of the 1<sup>st</sup> year of the term and end December 31 of the 3<sup>rd</sup> year." Doc Winger made a motion to accept the proposed Bylaw language and Al Lubeck seconded the motion. Upon roll call vote of all Board members, the motion passed unanimously with board members Porter, Hand, Backus, Lubeck, Ptacnik, Triplett, Winger and Gans voting in favor.

### **School and Libraries Report**

Christa Porter updated the Board on E-rate activities. A total of 64 libraries in Nebraska applied for a total of \$306,097 in 2021 E-rate funding through the Universal Service Administration Company (USAC), which is an increase from the previous year. On April 17, 2021, USAC released the first Wave of the Funding Commitment Decision Letters (FCDLs), and a second wave of FCDLs were released on April 23, 2021. With the second wave of FCDLs, a total of 48 libraries have received funding commitments totaling \$85,508.83; two of which involve state matching funds through the NUSF-117 E-Rate Special Construction program -- Clay Center Public Library and Beatrice Public Library. There are four additional applications that involve NUSF-117 applicants: Bayard, Bancroft, Verdigre, and Wymore, which remain pending with USAC.

Ms. Porter provided information to the Board about the American Rescue Plan Act of 2021 (ARPA), which created the Emergency Connectivity Fund, and provides nearly \$7.2 billion to fund remote learning and broadband connectivity resources, for both on-campus and off-campus access. The fund will reimburse 100 percent of eligible costs associated with advanced telecommunications and information services including eligible equipment, which could include wi-fi hotspots, modems, routers, and connected devices such as laptops and tablets. The FCC has requested comments on the application process, with reply comments due April 23, 2021.

## **Updates on Other Activities and Pending Legislation**

Cullen Robbins gave a brief review of the Rural Broadband Task Force, its organization and committees. In 2019, the Rural Broadband Task Force provided their first report to the Nebraska Legislature. The task force is required to provide a report to the legislature once every two years. A report to the legislature will be due by the end of 2021. The task force formed subcommittees to report on various topics, including Nebraska Universal Service Fund. In the 2019 report, the NUSF Subcommittee recommendations included:

- Modernization of the NUSF contribution system.
- Establishment of a grant-based system for distribution of broadband development support.
- Investigate a state-run reverse auction mechanism to support broadband build out in rural areas of Nebraska.

This year, the task force formed a new subcommittee on agriculture. The next meeting of the full task force will be held on May 17, 2021, at 3:00 PM.

Mr. Robbins reported on LB 338, introduced by Senator Bostelman. The bill provides for redirection of NUSF support as a companion to reverse auction. The original bill has been amended to include a provision which will allow for cities, villages, and counties to use funding, and increases the speed requirement for projects that include construction of infrastructure that provides broadband service scalable to 100Mbps down and 100Mbps up. The bill has advanced to Select File.

Mr. Robbins reported on LB 388, introduced by Senator Friesen on behalf of the Governor. This bill will direct the PSC to administer a grant program for broadband development in Nebraska, assigning \$20.0 million dollars each year for the next 2 years, with applications due October 1<sup>st</sup> for the first year, and before July 1<sup>st</sup> for subsequent funding years. The program will include a challenge process to be administered by the PSC. The program will require a 50 percent funding match. Applicants must agree to complete projects within 18-months after the grant is awarded, with the possibility for one 6-month extension if good cause is shown. A repayment provision is included in the bill for those projects not completed by the deadline. Applicants must agree to conduct speed testing and submit results to the Commission. The bill sets priority areas for projects as follows:

1. Unserved areas with less than 25/3 service;
2. Unserved areas already receiving federal support but will not be completed within 2-years after the grant application deadline if it's determined that additional funding provided by this program will accelerate deployment of the network;
3. Underserved with minimum 25/3 service, but less than 100/20 service.

LB388 is currently on General File and is expected to be on the floor for debate within the next couple weeks. If the bill passes, the PSC will open a docket initiating a proceeding which will include a formal comment cycle.

The question was then asked to compare this bill to the Federal program already in place. The funding provided under this program could potentially provide additional funds to projects receiving federal funding if the additional funds would provide for higher speeds than what was intended through use of federal funds. The program also provides for funding of projects already receiving federal funds if the

project area is deemed unserved (less than 25/3 service) but will not be completed within 2 years after the grant application deadline if it's determined that additional funding provided by this program would accelerate deployment.

### **NPSC NUSF Program Reports**

- **NUSF-100/NUSF-111/NUSF-119 – Updates on NUSF Contribution Methodology:**

Mr. Robbins provided an overview of modifications that have been made over the years to the NUSF contribution mechanism. In NUSF-100/111, NUSF contributions moved from being assessed on revenues only to a hybrid methodology involving assessments for residential connections on a \$1.75 per line/connection, and business and other assessable revenues based on a percentage basis at 6.95%. This change was implemented in 2019 and resulted in some stability of remittances into the fund.

NUSF-119 was opened in 2020 to further explore the rate design for the services currently subject to revenues-based surcharge. In testimony provided by Cullen Robbins during the January 2021 hearing, it was noted that there was a significant drop in business remittances observed towards the end of 2020, which appears to primarily involve one mobile wireless carrier shifting revenue from assessable to non-assessable revenue types. The PSC continues to explore the NUSF contribution methodology. The NUSF-119 final order is expected to occur prior to the NUSF-4 hearing in which the NUSF Advisory Board provides a recommendation regarding the surcharge amount.

- **Rule and Reg. 202 – Reverse Auction Rules**

Mr. Robbins reported on Rule and Reg. 202 for the establishment of reverse auction rules. The PSC was provided statutory authority in 2018 to establish a reverse auction program. The rule making process to establish the general framework was initiated, and the PSC approved the draft rules in 2020. The draft rules initially included a provision for community-based redirection of support, which was removed at the request of the Attorney General's Office as they determined that portion was not included in the original directive of the legislature. The draft rules are currently back at the Attorney General's office for review and approval. However, the community redirection of support provision may be added back in depending on what happens in the legislative session.

- **Nebraska Telephone Assistance Program (NTAP)/Lifeline Update:**

Cullen Robbins reported that in 2019, USAC transitioned to verification of participant eligibility for all states to National Verifier (NV). The federal Lifeline program has traditionally provided \$9.25 per month for voice-only, broadband, and bundled service. However, the federal support level for voice-only service has been phased down to the current support amount of \$5.25 per month. Effective December 1, 2021, the support amount for voice-only service will be phased down to zero. Participation in NTAP/Lifeline continues to decline year over year. Some larger carriers have relinquished their ETC designation and no longer offer Lifeline to their subscribers. The Nebraska Telephone Assistance Program (NTAP) continues to provide reimbursement to carriers for the supplemental state support of \$3.50 per month.

- **Telehealth/NUSF-57 Update:**

Mr. Robbins reported on modernization of the Nebraska Telehealth Program (NUSF-57) within the NUSF-57 order entered on January 5, 2021. The modifications were made in response to federal funding changes in which the FCC expanded the Rural Healthcare Program (RHC) to include the Healthcare Connect Fund (HCF) Program. The HCF provides eligible participants (healthcare providers and consortia) with a 65 percent discount on the cost of eligible broadband services and facilities. The Nebraska Telehealth program provides up to a maximum of 25 percent of total eligible costs. The PSC has allocated an annual amount of \$1.5 million for the Nebraska Telehealth program and is currently accepting applications through June 15, 2021.

- **NUSF-117 – Schools/Libraries Special Construction Matching Fund Update:**

Mr. Robbins noted that the NUSF-117 docket was opened in 2020, as a companion to the FCC’s E-rate Special Construction Matching program. The FCC E-Rate program provides discounts of up to 90% of eligible project costs, with additional special construction match of state funds of up to 10% on a dollar to dollar basis, not to exceed 100% of costs. The PSC allocated \$1 million to the NUSF-117 Special Construction Matching Fund program, which will provide up to a 10% match. The PSC has approved applications for the state match from six libraries and one public school. The \$1 million allocation is not expected to be fully utilized considering the level of participation to date.

- **NUSF-92 – COVID Broadband Support Program**

Mr. Robbins provided an update to the Board regarding the NUSF-92 COVID Broadband Support Program. The Commission allocated \$1 million in funding to reimburse carriers that connected Nebraskan’s that were impacted by COVID by job loss, remote learning, low income, and for providing public Wi-Fi hotspots. Approximately \$225,000 has been reimbursed through the program to date. The Commission has yet to determine what will be done with the remaining funds allocated to the program.

- **NUSF-92 – Wireless Broadband Grants**

Mr. Robbins discussed that the NUSF-92 wireless broadband grants are intended to provide funding for tower construction to improve coverage in areas that are not otherwise economically feasible for carriers to build. In the last round of applications, 20 tower applications were received. Consumer Cellular was awarded funding for 2 tower sites, with Viaero being awarded funding for 9 tower sites.

- **NUSF-99 – High Cost Fund for Price Cap Carrier**

Cullen Robbins provided an update regarding NUSF-99, which is the support mechanism for price cap carriers such as CenturyLink, Windstream, and Frontier. To date, there have been 91 projects funded serving approximately 17,100 households.

The NUSF-99 distribution methodology traditionally provides for 20% ongoing support and an 80% grant-based allocation in which projects must be filed and then reimbursement sought as costs

are incurred. Initially, this program did not provide a timeline on when the grant-based money would need to be used. Further, early grants required 10/1 speeds, which is now outdated. The Commission opened NUSF-99 PO 2 docket to modify the process. The changes in NUSF-99 PO 2 included:

- 25/3 speed requirement;
- Further defining what areas are eligible for support;
- Requirement that carriers build to exchanges at modeled costs as outlined;
- Required carriers to provide the Commission with notice of projects that use 95 percent of buildout support. If the threshold is not met, any remaining support would go into a reverse auction.
- Carriers are provided with six months to make their selections and inform the Commission of their projects. Price cap carriers have until July 16, 2021 to file project selections with the Commission that utilize 95 percent of the allocated NUSF support;

• **NUSF-108 – High Cost Fund for Rate of Return Carriers**

Cullen Robbins provided an update regarding NUSF-108, which is the support mechanism for rate of return carriers. The allocation methodology considers the percent the carrier is currently built out to, and broadband deployment support (BDS) is provided for those areas that are not yet built out to a minimum 25/3. The build out support is intended to offset the costs to build out in the area. To date, there have been 81 projects funded serving approximately 1,600 households. Commissioners are currently considering modifications to the program.

**NUSF-4: Discussion and Action for Recommendation of the NUSF Surcharge**

Cullen Robbins presented a table showing the current NUSF Fund balance and the NUSF budget for 2021. This included an overview of the remittances received from 2018 through 2020. In addition, a table was presented outlining the budgeted amounts for each program within NUSF. Finally, a breakdown was provided which displayed the current fund balance, less amounts encumbered to NUSF-92, 99, and 108 projects not yet completed, leaving the end balance in the fund left to support other NUSF programs.

Mr. Robbins noted remittance trends show steady residential remittances even though there are some fluctuations from month-to-month. However, business remittances have shown a significant drop in business cellular remittances between August and October 2020, which informed some of the decision making in the NUSF-119 contribution methodology proceeding.

Mr. Robbins then showed the Board a forecasting tool which could be manipulated to show different scenarios. The tool estimates remittances based on the current residential connection surcharge of \$1.75 per line and the business revenue surcharge of 6.95%, versus remittances at various other line and/or revenue assessment rates. While a percentage may be needed for certain revenue types, such as prepaid wireless, toll, private line, and other revenue sources, the Commission is currently considering moving business wireline and wireless to a connections-based assessment. Various scenarios were input into the tool to estimate how remittances might change if the Commission were to approve moving to a connections-based assessment for business lines. Mr. Robbin’s recommendation to the Board is to at least maintain the current level of the fund, which is \$46 million. The NUSF-119 order is

expected to occur in early May 2021, and the NUSF-4 hearing is currently scheduled for May 18, 2021. The surcharge set in NUSF-4 last year is effective until June 30, 2021. The Commission will have to consider an implementation date for any changes made to the remittance methodology. Due to the timing in which NUSF-119 and NUSF-4 will take place, it is recommended that the Board provide a recommendation regarding the current remittance methodology, in addition to a recommendation of the surcharge amount in the event that the business remittances are moved to a connections basis.

Lengthy discussion was then held on how the COVID-19 Virus has affected businesses. There are businesses closing offices and transitioning all or part of their employees to work from home, or hybrid work arrangements. At this time, it is unclear what percentages of businesses will maintain the changes made to their work environment during the pandemic. Further, it was noted that many businesses may be maintaining their current lines while decisions are made regarding work environments. It is possible that businesses will make additional shifts as they evaluate their future telecommunication needs over the next 9-12 months. It is expected that the NUSF could see additional drops in business remittances as revenues and/or line counts could be impacted. If business remittances shift drastically, it would be less impactful than a decrease in the residential remittance rate, because businesses make up a smaller percent of the overall remittances. It was recommended that regardless of the contribution methodology ultimately implemented, that the commission continue to monitor business remittances over the next 9-12 months.

Doc Winger made a motion to recommend to the Commission that the current residential surcharge of \$1.75 per line and business revenue rate at 6.95% be continued for the next fiscal year of 2021/2022. The motion was seconded by Gregg Ptacnik. Gene Hand then moved to amend the motion pending analysis of the effects of COVID-19 on business lines and revenues rates and if the Commission decides to move to a connections-based remittance methodology for businesses, that residential and business surcharges be set to \$1.50 per line. Amended motion seconded by Al Lubeck. Upon roll call vote of all Board members, the motion passed unanimously with board members Porter, Hand, Backus, Lubeck, Ptacnik, Triplett, Winger and Gans voting in favor.

### **Other Business**

No other business was discussed.

### **Public Comments**

Gene Hand invited the public to address the Board. No public comments were received.

### **Adjourn**

Al Lubeck made a motion to adjourn the meeting, seconded by Christa Porter. Upon roll call vote of all Board members, Porter, Hand, Backus, Lubeck, Ptacnik, Triplett, Winger and Gans voting in favor, the meeting adjourned at 3:17 p.m.